The MEDICARE FINAL RULE and Physician Fee Schedule is out for 2023!

By: Terry A. Fletcher BS, CPC, CCC, CEMC, CCS, CCS-P, CMC, CMSCS, ACS-CA, SCP-CA, QMGC, QMCRC, QMPM
Healthcare Coding and Reimbursement Consultant, Educator and Auditor
ICD10Monitor.com Editorial Advisory Board Member
CodeCast Podcast weekly podcaster
Member NSCHBC, AHIMA, AAPC, AAFP

While CMS (the Centers for Medicare and Medicaid Services) are patting themselves on the back for their new policies on access to behavioral health services, which is appreciated, the Medicare Physician Fee Schedule Final Rule, released on Tuesday, November 1st, is anything but exciting news when you look at "big picture" for 2023.

First, the 2023, Medicare Physician Fee Schedule, will end the temporary 3% increase that the COVID pandemic brought for 2021 and 2022. This will decrease the Medicare physician payment to 4.5% from these "statutorily-mandated" cuts.

The 2023 PFS conversion factor is $33.06, a decrease of $1.55 from the 2022 conversion factor of $34.61. This conversion factor reflects the statutorily required update of 0% for 2023, the expiration of the temporary 3% supplemental increase in 2022 payments that were provided by the Protecting Medicare and American Farmers from Sequester Cuts Act, and the statutorily required budget neutrality adjustment to account for changes in payment rates, according to CMS. Also of note, the IRF reflected a CF of $33.08, and this is $0.02 down even more than anticipated.

Physician groups are pressing for Congress to intervene to stop the cuts. Many are pushing for Congress to pass the Supporting Medicare Providers Act, H.R. 8800.

Introduced in House (09/13/2022)
Supporting Medicare Providers Act of 2022
This bill extends a payment increase (3%) under Medicare's physician fee schedule through the end of 2023 (currently set to expire at the end of 2022).
So if this is not passed, not only will physicians feel the over 4% decrease of the fee schedule, but the sequestration 2% reduction from the 2011 Budget Control Act, was reinstated July 2022, and there is an additional 4% Medicare cut, stemming from the Statutory Pay-As-You-Go Act (PAYGO), from the Biden Administrations $1.9 Trillion Dollar relief package of 2021. Physicians are looking at a nearly 8.5% Medicare cut on January 1, 2023.

AMA President Dr. Jack Resneck Jr. said Tuesday, *"The Medicare payment schedule released today puts Congress on notice that a nearly 4.5% across-the-board reduction in payment rates is an ominous reality unless lawmakers act before January 1st, 2023. The rate cuts would create*

immediate financial instability in the Medicare physician payment system and threaten patient access to Medicare-participating physicians.

"Earlier this year, the AMA offered detailed comments on the proposed payment schedule. It was immediately apparent that the 2023 Medicare physician payment rates not only failed to account for inflation in practice costs and COVID-related challenges to practice sustainability but also included the damaging across-the-board reduction. Unless Congress acts by the end of the year, physician Medicare payments are planned to be cut by nearly 8.5% in 2023 – partly from the 4% PAYGO sequester – which would severely impede patient access to care due to the forced closure of physician practices and put further strain on those that remained open during the pandemic."

The American Academy of Family Physicians President Dr. Tochi Iroku-Malize said, *"The AAFP calls on Congress to pass legislation safeguarding Medicare beneficiaries' access to comprehensive primary care and other essential services by averting payment cuts set to go into effect in 2023," Iroku-Malize said. "Congress must also invest in positive annual updates to Medicare physician payment to account for inflation in practice costs. It's past time to end the untenable physician payment cuts – which have now become an annual threat to the stability of physician practices – caused by Medicare budget neutrality requirements and the ongoing freeze in annual payment updates."*

Physician advocacy group, MGMA *(Medical Group Management Association) Senior Vice President Government Affairs Anders Gilberg said, "As expected, CMS finalized a substantial reduction to the conversion factor – negatively impacting physician reimbursement across the board. It is more critical than ever that Congress act to avert these cuts, as well as the 4% PAYGO sequestration, before the end of the year. Ninety percent of medical practices reported that the projected reduction to 2023 Medicare payment would reduce access to care. This cannot wait until next Congress – there are claims processing implications for retroactively applying these policies."*

FINAL RULE IMPACTS

The final rule expands access to behavioral healthcare, cancer screening coverage and dental care**,** as well as makes changes to the Medicare Shared Savings Program.

Telehealth Services:

(The PHE, Public Health Emergency, was renewed for the 11th time, in October, taking the next expiration date to January 11th, 2023).

For 2023, CMS Final Rule, will be consistent with the CAA 2022 (Consolidations Appropriations Act), where telehealth provisions in sections 301-305 of the Act, will continue for 151 days after

the PHE ends. These policies, will include allowing telehealth services to be furnished on any geographic location (in the U.S.) and in any originating site, including the beneficiary's home). The "audio-only" telehealth list of temporary services will remain in place for 151 days after the PHE ends, again in alignment with the CAA, 2022.

CMS has confirmed that PT's, OTs, speech language pathologists, and audiologists, will be allowed to furnish their services via telehealth, during the PHE and 151 days after. The CAA rule of delaying the in-person visit requirements for mental health services, via telehealth will remain in place until the 152nd day after the PHE ends.

Telehealth POS

CMS finalized the proposal to allow for telehealth services to continue to "bill with the place of service (POS) indicator that would have been reported had the service been furnished in-person. These claims will continue to require the modifier "95" to identify them as services via telehealth, through the end of 2023. ***This is important to know, as CPT has created 2 new POS codes for telehealth for 2022, and if used this could impact reimbursement (lowered), as Medicare again, has stated to use the POS that would have been reported had the services been furnished in-person.***

Behavioral Health Services and Opioid Use Disorder Treatment

In line with the 2022 CMS Behavioral Health Strategy, CMS is strengthening access to behavioral health services by allowing behavioral health clinicians like licensed professional counselors and marriage and family therapists to offer services under general (rather than direct) supervision of the Medicare practitioner. Medicare will pay Opioid Treatment Programs that use telecommunications with patients to initiate treatment with buprenorphine. CMS is also clarifying that Opioid Treatment Programs bill for opioid use disorder treatment services provided through mobile units, such as vans, in accordance with Substance Abuse and Mental Health Services Administration (SAMHSA) and Drug Enforcement Administration (DEA) guidance. These policies may increase access in rural and other underserved areas, CMS said.

CMS is also finalizing policies to pay for clinical psychologists and licensed clinical social workers to furnish integrated behavioral healthcare as part of a primary care team. Finally, Medicare will provide a new monthly payment for comprehensive treatment and management services for patients with chronic pain. These new services offer a whole-person approach to care.

Expanding Coverage for Colon Cancer Screening

Medicare will now reduce the minimum age for colorectal cancer screening from 50 to 45 years, in alignment with recently revised policy recommendations by the U.S. Preventive Services Task Force.

Also starting 2023, the out-of-pocket for patients will change when a patient presents for a "Screening Colonoscopy" and a growth is found and removed, changing the encounter to a diagnostic and/or therapeutic procedure. Since 2011, the screening colonoscopy has no share of cost to the patient, but when there is a growth (polyp) found and removed/ablated, the patient still gets their deductible waived, but has been subject to the co-insurance amount of the procedure. Starting 2023, instead of a 20% co-insurance patient responsibility, this will decrease to 15% through 2026.

Additionally, Medicare will now cover as a preventive service a follow-on screening colonoscopy after a non-invasive stool-based test returns a positive result, which means that beneficiaries will not have out-of-pocket costs for both tests.

Finalizing Payment for Dental Services That Are Integral to Covered Medical Services

CMS is codifying current policies in which Medicare Parts A and B pay for dental services when that service is integral to treating a beneficiary's medical condition. Medicare will also pay for dental examinations and treatments in more circumstances, such as to eliminate infection preceding an organ transplant and certain cardiac procedures, beginning in 2023, and prior to treatment for head and neck cancers, beginning in 2024.

As a caution, this does not infer general dental coverage, but specific dental coverage limited to medical condition overlap.

Finally, CMS is establishing an annual process to review public input on other circumstances when payment for dental services may be allowed.

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