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2022 Medicare Physician Fee Schedule

Proposed Rule Summary

On Tuesday, July 13, 2021, the Centers for Medicare & Medicaid Services (CMS) issued the 2022 Medicare Physician Fee Schedule (MPFS) proposed rule, which estimates an 8.75% cut to radiation oncology services for 2022. ASTRO is very disappointed in the Administration's proposal to implement such significant cuts that could restrict access to care and prevent cancer patients from receiving high-value, high-quality radiation therapy. This is particularly troublesome given the experiences many practices have had over the last year, as they struggled to provide cancer treatments during the COVID-19 public health emergency (PHE). ASTRO will advocate for these inappropriate payment cuts to be reduced, or at minimum, phased in over time.

The proposed rule updates the payment policies, payment rates, and quality provisions for services furnished under the MPFS effective January 1, 2022. The MPFS pays for services furnished by physicians and other practitioners in all sites of service. These services include visits, surgical procedures, diagnostic tests, therapy services, specified preventative services and more. Payments are based on the relative resources typically used to furnish the service. Relative value units (RVUs) are applied to each service for physician work, practice expense and malpractice. These RVUs become payment rates through the application of a Conversion Factor, which is updated annually. Comments in response to the proposed rule are due to CMS by September 13, 2021.

MPFS Impact Table

The MPFS Impact Table shows the estimated impact on total allowed charges by specialty of all the RVU changes. CMS is proposing to reduce payments for radiation oncology services for 2022 by 8.75% (see Table 123 below). Of that total cut, 5% of the reduction is primarily due to increases in clinical labor pricing for some specialties, which has the effect of lowering payments to specialties that use expensive equipment, such as radiation oncology, in the budget neutral environment for practice expense (PE). The remaining cut is due to the December 31, 2021 expiration of the 3.75% increase in the Conversion Factor, which was secured through the passage of the COVID-19 Emergency Relief Package at the end of 2020. Other causes of the reduction are CMS's proposals to revalue individual procedures (based on reviews by RUC and CMS), as well as continued phase-in of updates to supply and equipment pricing.

If CMS implements the changes fully for 2022, radiation oncology would face an 8.75% decrease; however, the Agency is considering a 4-year transition that would limit the radiation oncology reduction in 2022 to 5.75% (see Table 135 below).

Table 123: CY 2022 PFS Estimated Impact on Total Allowed Charges by Specialty

Specialty	Allowed Charges (mil)	Impact of Work RVU Changes	Impact of PE RVU Changes	Impact of MP RVU Changes	Combined Impact
Radiation Oncology and Radiation Therapy Centers	$1,660	0%	-5%	0%	-5%[1]
Total	$89,065	0%	0%	0%	0%

Table 135: CY 2022 PFS Estimated Impact on Total Allowed Charges by Specialty Using the First Year of a 4-Year Clinical Labor Pricing Transition

Specialty	Allowed Charges (mil)	Impact of Work RVU Changes	Impact of PE RVU Changes	Impact of MP RVU Changes	Combined Impact
Radiation Oncology and Radiation Therapy Centers	$1,660	0%	-2%	0%	-2%[1]
Total	$89,065	0%	0%	0%	0%

Clinical Labor Pricing Update

Clinical labor rates were last updated in 2002 using Bureau of Labor Statistics (BLS) data and other supplementary sources where BLS data were not available. CMS is proposing to update the Clinical Labor Prices in conjunction with the final year of the supply and equipment pricing update. This addresses concerns that current wage rates are inadequate because they do not reflect current labor rate information, as well as concerns that updating the supply and equipment pricing without updating the clinical labor pricing creates distortions in the allocation of direct PE. The update will again be based on BLS data.

The overall impact of the clinical labor pricing update on radiation oncology is estimated to be a reduction of 4% on allowed charges. According to the proposed rule, the effects of the clinical labor pricing update on specialty payment impacts are largely driven by the share that labor costs represent of the direct PE inputs for each specialty. Specialties with a lower or higher than

[1] Does not include the December 31, 2021 expiration of the 3.75% increase in the Conversion Factor from the COVID-19 Emergency Relief Package.

average share of direct costs attributable to labor will experience significant declines or increases, respectively.

The table below lists the proposed updates to the clinical labor prices that are of interest to radiation oncology. The proposed cost per minute for the clinical staff type was derived by dividing the annual salary (converted to 2021 dollars using the Medicare Economic Index) by 2,080 (the number of hours in a typical work year) to arrive at the hourly wage rate and then again by 60 to arrive at the per minute cost. To account for the employers' cost of providing fringe benefits, such as sick leave, CMS used the same benefits multiplier of 1.366 as employed in CY 2002.

Table 5: Proposed Clinical Labor Pricing Update

Labor Code	Labor Description	Source	Current Rate Per Minute	Updated Rate Per Minute	% Change
L050C	Radiation Therapist	BLS 29-1124	0.50	1.00	100%
L050D	Second Radiation Therapist for IMRT	BLS 29-1124	0.50	1.00	100%
L063A	Medical Dosimetrist	BLS 19-1040	0.63	1.07	70%
L107A	Medical Dosimetrist/Medical Physicist	L063A, L152A	1.08	1.45	35%
L152A	Medical Physicist	BLS 19-2012(75^{th} percentile)	1.52	1.80	18%

CMS is proposing to use the 75^{th} percentile of the average wage data for the Medical Physicist (L152A) clinical labor type because the Agency believes this level would most closely fit with historical wage data for this clinical labor type. Per the proposed rule, the available BLS wage data describes a more general category of physicist, which is paid at a lower rate than a Medical Physicist. CMS is seeking comment on the proposed updated clinical labor pricing.

Additionally, CMS is considering a four-year transition to implement the clinical labor pricing update. According to the Agency, a phased in approach would smooth out the increases and decreases in payment caused by the pricing update for affected stakeholders, promoting payment stability.

Direct PE Inputs for Supply and Equipment Pricing – Year Four of Four-Year Phase-In

In the 2019 MPFS final rule, CMS worked with market-research company StrategyGen to conduct an in-depth market research study to update the PFS direct PE inputs (DPEI) for supply and equipment pricing. CMS updated the Direct Practice Expense (PE) inputs for the pricing for over 2,000 supply and equipment items (1,300 supplies and 750 equipment items), including key

equipment items related to radiation oncology. To address significant changes in payment, CMS phased in the new direct PE inputs over a four-year period. ASTRO opposed these proposed changes and helped to mitigate some of the initially proposed reductions.

CY 2022 is the fourth and final year of the transition, which means that PE input pricing for the affected items in 2022 will be based on 100% of the new pricing. The following table details those radiation oncology equipment items that were proposed to experience the greatest decline in reimbursement in CY 2022 because of this policy.

	2020 Price	**2021 Price**	**2022 Proposed Price**
ED033 Treatment Planning System, IMRT (Corvus w-Peregrine 3D Monte Carlo)	$273,896	$235,571.50	$197,247
ER003 HDR Afterload System, Nucletron – Oldelft	$253,787	$193,181.09	$132,574.78
ER083 SRS System, SBRT, Six Systems, Average	$3,486,861	$3,230,291.38	$2,973,721.84

Conversion Factor/Target

The 2022 MPFS Conversion Factor, based on the proposed 2022 rates, is set at $33.58. This represents a decrease of $1.31, or more than 3%, from the 2021 MPFS Conversion Factor rate update of $34.89. This 3.75% decline stems from a statutorily mandated budget neutrality adjustment (0.00%) to account for changes in work RVUs, the expiration of the 3.75% increase for services furnished in CY 2021 (as provided in the 2021 Consolidated Appropriations Act), and the CY 2022 RVU Budget Neutrality Adjustment (-0.14%).

Table 121: Calculation of the CY 2022 PFS Conversion Factor

CY 2021 Conversion Factor		$34.8931
Conversion Factor without CY 2021 Consolidated Appropriations Act Provision		$33.6319
Statutory Update Factor	0.00% (1.0000)	
CY 2022 RVU Budget Neutrality Adjustment	-0.14% (0.9986)	
CY 2022 Conversion Factor		**$33.5848**

The table below demonstrates the impact of the Conversion Factor reduction on key radiation

oncology services:

CPT Code	MOD/SOS	CPT Descriptor	2021 National Rate	2022 National Rate	2022 Impact
G6015		Radiation tx Delivery IMRT	$ 385.57	$ 336.52	-12.72%
77427		Radiation tx Management x5	$ 191.91	$ 190.43	-0.77%
77014		CT Scan for Therapy Guide	$ 126.31	$ 116.54	-7.74%
77301		Radiotherapy Dose Plan IMRT	$ 1,935.17	$ 1,677.56	-13.31%
G6012		Radiation Treatment Delivery	$ 264.84	$ 213.94	-19.22%
77014	26	CT Scan for Therapy Guide	$ 45.36	$ 44.33	-2.27%
G6013		Radiation Treatment Delivery	$ 265.54	$ 214.27	-19.31%
77263		Radiation Therapy Planning	$ 169.93	$ 166.58	-1.97%
77373		SBRT Delivery	$ 1,172.06	$ 907.13	-22.60%
77301	26	Radiotherapy Dose Plan IMRT	$ 422.21	$ 415.11	-1.68%
77334	26	Radiation Treatment Aid(s)	$ 60.71	$ 59.78	-1.54%
77300		Radiation Therapy Dose Plan	$ 67.34	$ 63.14	-6.24%
G6002		Stereoscopic X-Ray Guidance	$ 77.11	$ 74.89	-2.88%
77336		Radiation Physics Consult	$ 82.70	$ 74.22	-10.25%
77338		Design Mlc Device for IMRT	$ 480.48	$ 450.37	-6.27%
77300	26	Radiation Therapy Dose Plan	$ 32.80	$ 32.24	-1.70%
77290		Set Radiation Therapy Field	$ 501.41	$ 424.51	-15.34%

Expiration of PHE Flexibilities for Direct Supervision Requirements

Direct supervision requires the immediate availability of the supervising physician or other practitioner, but the professional need not be present in the same room during the service. Immediate availability has been interpreted to mean in-person, physical availability (not virtual).

During the Public Health Emergency, CMS changed the definition of "direct supervision" as it pertains to the supervision of diagnostic tests, physicians' services, and some hospital outpatient services to allow the supervising professional to be immediately available through virtual presence using real-time audio/video technology, instead of requiring their physical presence. In the 2021 MPFS final rule, CMS continued this policy through the end of the PHE for COVID-19 or December 31, 2021, whichever comes later.

In the 2022 MPFS proposed rule, CMS seeks information on whether this flexibility should be continued beyond the latter of the end of the PHE for COVID-19 or 2021. The Agency is specifically seeking input on whether this flexibility should potentially be made permanent, which would alter the definition of "direct supervision" to include immediate availability through the virtual presence of the supervising physician or practitioner using real-time, interactive audio/video communications technology. CMS is also seeking input on whether this policy change should be implemented without limitation after the PHE for COVID-19 or through a gradual sunset of the existing policy. Furthermore, the Agency is seeking comment on whether a revised policy should only apply to a subset of services, recognizing that it may be inappropriate to allow direct supervision without physician presence for some services, due to potential patient safety concerns.

Potentially Misvalued Codes

Since 2009, CMS has solicited misvalued code nominations from individual sand stakeholder groups. These individuals or groups may submit codes for review under the potentially misvalued codes initiative. In the 2022 MPFS proposed rule, CMS is seeking comment of two codes of potential interest to radiation oncology: CPT code 59200 *Insertion cervical dilator (e.g., laminaria, prostaglandin)* and CPT code 55880 *Ablation of malignant prostate tissue, transrectal, with high intensity-focused ultrasound (HIFU).*

A stakeholder nominated CPT code 59200 *Insertion cervical dilator (e.g., laminaria, prostaglandin)* as potentially misvalued because the direct PE inputs do not include the supply item, Dilapan-S. The stakeholder had sought to establish a Level II HCPCS code for Dilapan-S, but CMS did not find sufficient evidence to support that request. Since then, the stakeholder has requested that Dilapan-S be considered as PE supply input for a Level I CPT code 59200. Specifically, the stakeholder recommends adding 4 rods of Dilapan-S at $80.00 per unit, for a total of $320.00, as a replacement for the current PE supply item, laminaria tent (a small rod of dehydrated seaweed that when inserted in the cervix, rehydrates, absorbing the water from the surrounding tissue in the woman's body), which is currently listed at $4.0683 per unit, with a total of 3 units, for a total of $12.20. CMS is seeking input on any analysis or studies demonstrating that the code meets the criteria for misvalued services.

CPT code 55880 *Ablation of malignant prostate tissue, transrectal, with high intensity-focused ultrasound (HIFU)* was identified as potentially misvalued due to the fact that it had not been valued in the non-facility/office setting. However, the stakeholder who nominated the code as misvalued did not include detailed recommendations for items, quantities, and unit costs for the

supplies, equipment types, and clinical labor that may be incurred in the no-facility/office setting, which are key for determining valuation.

The stakeholder said that advances in HIFU technology for the destruction of cancerous tissues in the prostate have reached the point where HIFU is just as effective and safe as CPT code 55873 *Cryosurgical ablation of the prostate (includes ultrasonic guidance and monitoring*, which has been valued for the past 10 years in the non-facility/office setting at approximately $6,514, with 186.69 total RVUs. CMS states that it does not have enough claims data for CPT code 55880 to make an accurate comparison with similar codes that may be furnished in non-facility settings. The Agency does not believe that the stakeholder makes the case that constitutes a misvaluation and is not inclined to identify the code as misvalued for 2022. The Agency is seeking input on any analysis or studies demonstrating that the code meets the criteria for misvalued services.

Open Payments

The Open Payments program is a statutorily-mandated program that promotes transparency by providing information to the public about financial relationships between the pharmaceutical and medical device industry, and healthcare providers. Payments or other transfers of value must be reported, including such things as research-related payments, honoraria, gifts, travel expenses, meals, grants, and other compensation.

In the 2022 MPFS proposed rule, CMS is proposing five changes related to the collection of Open Payments data beginning in 2023 for reporting in 2024. The changes include the following:

1) Adding a mandatory payment context field for payments or transfers of value attributed to teaching hospitals
2) Adding the option to recertify annually even when no records are being reported
3) Disallowing record deletions without substantiated reason
4) Updating the definition of ownership and investment interest
5) Adding a definition for a physician-owned distributorship as a subset of applicable manufacturer and group purchasing organizations
6) Requiring reporting entities to disclose relationships they have with other companies for the purposes of transparent reporting
7) Disallowing publications delays for general payment records
8) Clarifying the exception for short-term loans applies for 90 total days in a calendar year, regardless of whether the 90 days were consecutive
9) Removing the option to submit and attest to general payment records with an "ownership" Nature of Payment category

CMS believes these changes will increase the usability of the data, address stakeholder concerns, and give reporting entities sufficient time to prepare for changes to their data collection and reporting procedures.

Additional information regarding proposed changes to the Quality Payment Program will be included in a subsequent summary document.

To view the 2022 Physician Fee Schedule proposed rule, please visit:
https://public-inspection.federalregister.gov/2021-14973.pdf

For a fact sheet on the 2022 Physician Fee Schedule proposed rule, please visit:
https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-proposed-rule

For 2022 Physician Fee Schedule proposed rule data files, appendices, and other materials, please visit:
https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices