Freestanding Radiation Oncology Centers: Regulatory and Legislative Update

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What's New?

- Physician Fee Schedule
- Physician Reporting Requirements
- ACOs and other new payment models
- Fraud and Abuse Enforcement Efforts

Physician Fee Schedule

- Relative Value Units for Radiation Oncology procedures declining primarily as the result of implementation of AMA's most recent practice expense survey.
- Radiation Oncology Centers experienced the most significant payment reductions as the result of the PPIS in 2011 and comparable reductions are anticipated for 2012.

Physician Fee Schedule

- Generally, largest reductions in—
  - Radiation therapy-related imaging services
  - IMRT treatment delivery (-8.6%) ; IMRT planning (-5.1%)
  - Treatment devices Technical Component (-25%)
- Comparable reductions anticipated for next year.

Where Does This Leave Us?

- IMRT Treatment Delivery (CPT 77416) payment likely will be marginally HIGHER in the hospital setting than in the freestanding setting in 2013, although payment for conventional complex treatment delivery likely will remain higher in freestanding settings.
- Payment for many other non-treatment delivery codes may be higher in the hospital setting, although different bundling policies in the two settings may make direct comparisons difficult.

Physician Fee Schedule

- Conversion Factor
  - Current conversion factor "fix" only lasts until the end of the year.
  - Further relief subject to election year politics and likely to be another cliff-hanger.
  - Lame duck Congress likely to make permanent fix very unlikely.

Physician Fee Schedule

- Procedural Changes
  - Five Year Review has been eliminated: Now, everything is "up for grabs" every year.
  - Under new procedures, work relative value units and practice expense relative value units will be changed AT THE SAME time, which is likely to result in more frequent valuations of equipment, supply and non-physician personnel. Re-valuations not likely to result in increases!

Physician Reporting

- Physicians facing concurrent implementation of multiple programs, including:
  - 2015 value-based modifier (to be implemented based on 2013 claims for some physicians
  - 2012 penalties under the e-prescribing program (implemented based on 2011 claims)
  - 2015 penalties under the physician quality reporting system (PQRS) (based on performance in 2013)
  - 2015 penalties under electronic health record (EHR) program (potentially based on compliance in 2013)

Do these programs work?

- Recent study indicated that electronic records may INCREASE referrals for imaging services by facilitating ordering of these tests.
- Recent study also indicates that hospital quality reporting program fails to improve quality outcomes.

ACOs and other alternative payment models

- ACOs come in all flavors
  - "Pioneer" ACOs for more fully integrated health care systems
  - Advance payment ACOs for networks in rural areas and those that do not include a hospital participant
  - Plain ole vanilla ACOs—First "batch" of 27 just approved.

ACOs and other payment models

- Problem:
  - ACOs depend on the ability of CMS to provide a broad array of detailed claims data on a timely basis.
  - Thus far, it appears that CMS does not yet have the infrastructure necessary to provide the data necessary for ACOs to effectively "manage" care.

Fraud and Abuse and Overpayments

- ACA converts overpayments into false claims if amounts overpaid are not disclosed and returned.
  - 10 year "lookback" significantly increases exposure.
- RAC activity is beginning to focus on Part B claims, including those submitted by physicians.
- OIG has announced that employed physicians may be held liable for false claims submitted by hospitals, other employers.

Other Trends

- Pre-certification
- Increased skepticism about clinical utility of accepted medical treatment/screening (e.g. mammography, prostate cancer treatment for early stage disease)
- Increased focus on "self-referral" in radiation oncology
- Increased focus on "leveling the playing field" among different sites of service (e.g. hospital vs. freestanding/physicians' offices)