

September 2009

Lilly Oncology

Reimbursement Update

Previous Reimbursement Updates can be found at www.LillyPatientOne.com

Lilly Oncology is pleased to offer this newsletter as part of our commitment to patient access to care. For more information about the topics discussed in this issue, please contact Rick Ford, Director of Reimbursement Consulting for AccessMED, at 913-744-6001.

MG59418

© 2009 AccessMED, Inc.

This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of the written law or regulations or local payer guidelines. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

CMS Proposes 2010 Hospital Outpatient Prospective Payment (OPPS) Rules

The Centers for Medicare and Medicaid Services has released its annual proposed rule containing changes under consideration for the Hospital Outpatient Prospective Payment System (OPPS) in 2010. The proposed rule, "Medicare Program: Proposed Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Proposed Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates" appears in the July 20, 2009 *Federal Register*.ⁱ

If provisions of the proposed rule are finalized:

- **The drug packaging threshold** would rise from \$60 to \$65. Payment for any drug that costs less than \$65 per day would be packaged with other items and services provided in the hospital outpatient department on that day. Most drugs that cost more than the \$65-per-day threshold will continue to receive separate payment in 2010.ⁱⁱ

However, **diagnostic radiopharmaceuticals and contrast materials** that are not in pass-through status would continue to be packaged, regardless of their cost per day.ⁱⁱⁱ Also, **5-HT3 antagonists**, which are currently exempt from packaging regardless of their price, would no longer receive separate payment if their price per-day is below the drug packaging threshold.^{iv}

- **The drug payment rate for separately payable drugs** would generally remain at the current rate of Average Sales Price (ASP) + 4%. This rate would be intended to provide compensation for both drug acquisition and pharmacy overhead expenses.^v
- **New drugs with pass-through status** would be paid at ASP + 6%, unchanged from 2009. If the Competitive Acquisition Program (CAP) is reinstated in 2010, then payment would be the lower of ASP + 6% or the CAP rate for the drug.^{vi}

Manufacturers of drugs that are newly approved by the FDA must apply to CMS for pass-through status. Eligible drugs that are approved for pass-through status are eligible for the higher pass-through amount for a period of two to three years. Thirty-one drugs or biologicals are currently on the proposed pass-through list for 2010.^{vii} Others may be approved before the end of this year, and CMS would continue to add drugs newly approved for pass-through to the pass-through list on a quarterly basis.

Continued on Page 2


Answers That Matter.

2010 Medicare OPPS Proposals *continued from Page 1*

In 2010, CMS would begin to drop drugs from the pass-through list each quarter as their pass-through approval period expires. Currently, drugs are dropped from pass-through status only at the beginning of each calendar year. This new provision would apply only to drugs that are first eligible for pass-through in 2010. Those products that are currently on pass-through would be grandfathered under the current annual system.^{viii}

Pass-through drugs that cost less than the \$65 packaging threshold, diagnostic radiopharmaceuticals, and contrast materials leaving pass-through status at the end of a quarter would be paid at ASP + 4% (instead of ASP + 6%) for the remainder of the calendar year, then be considered for payment packaging the following year. Reimbursement for drugs that cost more than the \$65 packaging threshold would drop from ASP + 6% to ASP + 4% when they are no longer eligible for pass-through.

New drugs that are not granted pass-through status would be paid at ASP + 4%, unchanged from 2009.

Blood Clotting Factors would be paid at ASP + 4% plus a to-be-determined furnishing fee per unit.^{ix}

After the comment period ends on August 31, 2009, CMS will develop the final version of the 2010 rule, which is scheduled to be published in the *Federal Register* in late 2009. ♦

New, Deleted, and Revised ICD-9-CM Codes for 2010

The ICD-9-CM Coordination and Maintenance Committee has released fiscal year 2010 updates to the ICD-9-CM diagnosis and procedure codes. The coding updates will apply to claims filed with dates of service on or after October 1, 2009 (or, for hospitals, discharge dates on or after October 1, 2009).

Health care providers and facilities should be prepared to use the new and revised ICD-9-CM codes on October 1. The Health Insurance Portability and Accountability Act (HIPAA) requires that medical code sets must be date-of-service compliant. Since ICD-9-CM diagnosis codes are a medical code set, CMS and many other payers do not provide a grace period for providers to use in billing discontinued ICD-9-CM diagnosis codes on Medicare claims.¹

There are a number of new neoplasm and personal-history-of-malignancy codes, which are of particular interest to oncologists, that can be used beginning October 1. A complete list of new, deleted and revised ICD-9-CM diagnosis codes for 2010 is available on the CMS Web site at <http://www.cms.hhs.gov/transmittals/downloads/R1770CP.pdf>. ♦

¹ Medicare Claims Processing Manual, Chapter 23, Section 10.2, page 17: <http://www.cms.hhs.gov/manuals/downloads/clm104c23.pdf>

Endnotes:

ⁱ *Federal Register*, July 20, 2009, pp 35232 et. al.

ⁱⁱ *Ibid.*, p. 35319, column 2

ⁱⁱⁱ *Ibid.*, pp. 35323 - 35324

^{iv} *Ibid.*, pp 35320 - 35321

^v *Ibid.*, p. 35326, column 3

^{vi} *Ibid.*, p. 35310, columns 2 and 3

^{vii} *Ibid.*, p. 35310 - 35311, Table 22

^{viii} *Ibid.*, p. 35316, column 1

^{ix} *Ibid.*, p. 35333, column 1