DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

MLN Matters® Number: MM9476 **Related Change Request (CR) #: CR 9476**

Related CR Release Date: December 18, 2015 **Effective Date:** January 1, 2016

Related CR Transmittal #:R3423CP **Implementation Date:** January 4, 2016

Summary of Policies in the Calendar Year (CY) 2016 Medicare Physician Fee Schedule (MPFS) Final Rule and Telehealth Originating Site Facility Fee Payment Amount

Provider Types Affected

This MLN Matters® Article is intended for physicians and other providers who submit claims to Medicare Administrative Contractors (MACs) for services provided to Medicare beneficiaries.

Provider Action Needed

This article is based on Change Request (CR) 9476 which provides a summary of the policies in the Calendar Year (CY) 2016 Medicare Physician Fee Schedule (MPFS) Final Rule and announces the Telehealth Originating Site Facility Fee payment amount. Make sure that your billing staff is aware of these updates for 2016.

Background

The Social Security Act (Section 1848(b)(1); see **http://www.ssa.gov/OP_Home/ssact/title18/1848.htm**) requires the Centers for Medicare & Medicaid Services (CMS) to establish by regulation a fee schedule of payment amounts for physicians' services for the subsequent year. CMS issued a final rule with comment period on October 30, 2015, (see **http://www.gpo.gov/fdsys/pkg/FR-2015-11-16/pdf/2015-28005.pdf**), that updates payment policies and Medicare payment rates for services furnished by physicians and Non-Physician Practitioners (NPPs) that are paid under the MPFS in CY 2016.

The final rule also addresses public comments on Medicare payment policies proposed earlier this year. The proposed rule "Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2016" was published in the Federal Register on July 15, 2015 (see **http://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-16875.pdf**).

The final rule also addresses interim final values established in the CY 2015 MPFS final rule with comment period. The final rule assigns interim final values for new, revised, and potentially misvalued codes for CY 2016 and requests comments on these values. CMS will accept comments on those items open to comment in the final rule with comment period until December 29, 2015.

CR9476 provides a summary of the payment polices under the Medicare Physician Fee Schedule (PFS) and makes other policy changes related to Medicare Part B payment. These changes are applicable to services furnished in CY 2016 and they are as follows:

Sustainable Growth Rate (SGR)
The Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. 114-10, enacted on April 16, 2015) (MACRA; see **http://www.gpo.gov/fdsys/pkg/BILLS-114hr2enr/pdf/BILLS-114hr2enr.pdf**) repealed the Medicare SGR update formula for payments under the MPFS.

Access to Telehealth Services
CMS is adding the following services to the list of services that can be furnished to Medicare beneficiaries under the telehealth benefit: Prolonged service inpatient CPT codes 99356 and 99357 and ESRD-related services 90963 through 90966. The prolonged service codes can only be billed in conjunction with subsequent hospital and subsequent nursing facility codes. Limits of one subsequent hospital visit every three days, and one subsequent nursing facility visit every 30 days, would continue to apply when the services are furnished as telehealth services.

For the ESRD-related services, the required clinical examination of the catheter access site must be furnished face-to-face "hands on" (without the use of an interactive telecommunications system) by a physician, Clinical Nurse Specialist (CNS), Nurse Practitioner (NP), or Physician Assistant (PA). For the complete list of telehealth services, visit **http://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/index.html** on the CMS website.

Certified Registered Nurse Anesthetists (CRNAs) initially were omitted from the list of distant site practitioners for telehealth services in the regulation because CMS did not believe these practitioners would furnish any of the service on the list of Medicare telehealth services. However, CRNAs in some states are licensed to furnish certain services on the telehealth list, including evaluation and management services. Therefore, CMS revised the regulation at **42 CFR 410.78(b)(2)** (Telehealth services) to include a CRNA, as described

under **42 CFR 410.69**, to the list of distant site practitioners who can furnish Medicare telehealth services.

Telehealth Origination Site Facility Fee Payment Amount Update
The Social Security Act (Section 1834(m)(2)(B); see **https://www.ssa.gov/OP_Home/ssact/title18/1834.htm**) establishes the payment amount for the Medicare telehealth originating site facility fee for telehealth services provided from October 1, 2001, through December 31, 2002, at $20. For telehealth services provided on or after January 1 of each subsequent calendar year, the telehealth originating site facility fee is increased by the percentage increase in the Medicare Economic Index (MEI) as defined in the Social Security Act (Section 1842(i)(3); see **https://www.ssa.gov/OP_Home/ssact/title18/1842.htm**).

The MEI increase for 2016 is 1.1 percent. Therefore, for CY 2016, the payment amount for HCPCS code Q3014 (Telehealth originating site facility fee) is 80 percent of the lesser of the actual charge, or $25.10. (The beneficiary is responsible for any unmet deductible amount and Medicare coinsurance.)

Incomplete Colonoscopies
The method for calculating the payment for incomplete colonoscopies has been revised for 2016. New payment rates will apply when modifier 53 (discontinued procedure) is appended to codes 44388, 45378, G0105, and G0121. (For more information, see the MLN Matters article (MM9317) corresponding to CR9317 at **https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM9317.pdf** on the CMS website.)

Advance Care Planning, and With an Annual Wellness Visit (AWV)
Advance Care Planning (ACP) services are separately payable under the MPFS in 2016 (deductible and coinsurance apply). When voluntary ACP services are furnished as part of an Annual Wellness Visit (AWV), the deductible and coinsurance would not be applied for ACP.

Portable X-ray Transportation Fee
The "Medicare Claims Processing Manual," Chapter13, Section 90.3 was revised to remove the word "Medicare" before "patient" in Section 90.3. Also, guidance for the billing of the transportation fee of portable X-ray suppliers has been clarified. When more than one patient is X-rayed at the same location, the single transportation payment under the Physician Fee Schedule is to be prorated among all patients (Medicare Parts A and B, and non-Medicare) receiving portable X-ray services during that trip, regardless of their insurance status. For more information, see the MLN Matters article (MM9354) corresponding to CR9354 for more information at **https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM9354.pdf** on the CMS website.

"Incident to" Policy

CMS finalized the changes to **42 CFR 410.26**(a)(1) without modification, and the change to the regulation at 42 CFR 410.26(b)(5) with a clarifying modification. Specifically, CMS is amending the definition of the term, "auxiliary personnel" at § 410.26(a)(1) that are permitted to provide "incident to" services to exclude individuals who have been excluded from the Medicare program or have had their Medicare enrollment revoked. Additionally, CMS is amending § 410.26(b)(5) by revising the final sentence to make clear that the physician (or other practitioner) directly supervising the auxiliary personnel need not be the same physician (or other practitioner) that is treating the patient more broadly, and adding a sentence to specify that only the physician (or other practitioner) that supervises the auxiliary personnel that provide incident to services may bill Medicare Part B for those incident to services.

Establishing Values for New, Revised, and Misvalued Codes

The list of codes with changes for CY 2016 included under this definition of "adjustments to Relative Value Units (RVUs) for misvalued codes" is available under the "downloads" section at **http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html** on the CMS website.

Target for Relative Value Adjustments for Misvalued Services

The Protecting Access to Medicare Act of 2014 (PAMA; Section 220(d); see **http://www.gpo.gov/fdsys/pkg/BILLS-113hr4302enr/pdf/BILLS-113hr4302enr.pdf**) added a new subparagraph tot the Social Security Act (Section 1848(c)(2)(O)) to establish an annual target for reductions in MPFS expenditures resulting from adjustments to relative values of misvalued codes. Under the Social Security Act (Section 1848(c)(2)(O)(ii)), if the estimated net reduction in expenditures for a year as a result of adjustments to the relative values for misvalued codes is equal to or greater than the target for that year, reduced expenditures attributable to such adjustments will be redistributed in a budget-neutral manner within the MPFS in accordance with the existing budget neutrality requirement under the Social Security Act (Section 1848(c)(2)(B)(ii)(II)). The provision also specifies that the amount by which such reduced expenditures exceeds the target for a given year will be treated as a net reduction in expenditures for the succeeding year, for purposes of determining whether the target has been met for that subsequent year. Section 1848(c)(2)(O)(iv)) defines a target recapture amount as the difference between the target for the year and the estimated net reduction in expenditures under the MPFS resulting from adjustments to RVUs for misvalued codes. Section 1848(c)(2)(O)(iii)) specifies that, if the estimated net reduction in MPFS expenditures for the year is less than the target for the year, an amount equal to the target recapture amount will not be taken into account when applying the budget neutrality requirements specified in the Social Security Act (Section 1848(c)(2)(B)(ii)(II)). The PAMA (Section 220(d)) applies to Calendar Years (CYs) 2017 through 2020 and sets the target under the Social Security Act (Section 1848(c)(2)(O)(v)) at 0.5 percent of the estimated amount of expenditures under the PFS for each of those 4 years.

The Achieving a Better Life Experience Act of 2014 (ABLE; Section 202) (Division B of Pub. L. 113-295, enacted December 19, 2014) amended the Social Security Act (Section 1848(c)(2)(O)) to accelerate the application of the MPFS expenditure reduction target to CYs 2016, 2017, and 2018, and to set a 1 percent target for CY 2016 and 0.5 percent for CYs 2017 and 2018. As a result of these provisions, if the estimated net reduction for a given year is less than the target for that year, payments under the MPFS will be reduced.

In the CY 2016 PFS proposed rule, CMS proposed a methodology to implement this statutory provision in a manner consistent with the broader statutory construct of the MPFS. CMS finalized the policy to calculate the net reduction using the simpler method as proposed. CMS estimates the CY 2016 net reduction in expenditures resulting from adjustments to relative values of misvalued codes to be 0.23 percent. Since this does not meet the 1 percent target established by the Achieving a Better Life Experience Act of 2014 (ABLE), payments under the MPFS must be reduced by the difference between the target for the year and the estimated net reduction in expenditures (the "Target Recapture Amount"). As a result, CMS estimates that the CY 2016 Target Recapture Amount will produce a reduction to the CF of -0.77 percent.

Additional Information

The official instruction, CR9476, issued to your MAC regarding this change is available at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R3423CP.pdf** on the CMS website.

If you have any questions, please contact your MAC at their toll-free number. That number is available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html** under - How Does It Work.