THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

CHARTER
ADVISORY PANEL ON HOSPITAL OUTPATIENT PAYMENT

AUTHORITY

The authority for the Advisory Panel on Hospital Outpatient Payment (the Panel) is section 1833(t)(9)(A) of the Social Security Act (42 U.S.C. 1395l(t)(9)(A)). The Panel is governed by the provisions of Pub. L. 92-463, the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

OBJECTIVES AND SCOPE OF ACTIVITIES

The Panel may advise the Secretary, Department of Health and Human Services (HHS), and the Administrator, Centers for Medicare & Medicaid Services (CMS), on the following:

1) The clinical integrity of the Ambulatory Payment Classification (APC) groups and their associated weights, which are major elements of the Medicare Hospital Outpatient Prospective Payment System (OPPS), and the Ambulatory Surgical Center (ASC) payment system; and
2) The appropriate supervision level for hospital outpatient services. With respect to supervision, the Panel may recommend a supervision level to ensure an appropriate level of quality and safety for delivery of a given service, as described by a Healthcare Common Procedure Code System (HCPCS) code.

DESCRIPTION OF DUTIES

The Panel is technical in nature, and it may advise on the following issues:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Reconfiguring APCs (for example, splitting of APCs, moving HCPCS codes from one APC to another, and moving HCPCS codes from new technology APCs to clinical APCs).
- Evaluating APC group weights.
- Reviewing packaging the cost of items and services, including drugs and devices, into procedures and services, including the methodology for packaging and the impact of packaging the cost of those items and services on APC group structure and payment.
- Removing procedures from the inpatient list for payment under the OPPS.
- Using claims and cost report data for CMS's determination of APC group costs.
- Addressing other technical issues concerning APC group structure.
- Evaluating the required level of supervision for hospital outpatient services.
- OPPS APC rates for covered ASC procedures.

The subject matter before the Panel shall be limited to these and related topics. Unrelated topics are not subjects for discussion. Unrelated topics include, but are not limited to, the conversion factor, charge compression, revisions to the cost report, pass-through payments, correct code usage, new technology applications (including supporting information/documentation), provider payment adjustments, and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services.

AGENCY OR OFFICIAL TO WHOM THE PANEL REPORTS

The Panel reports to the Secretary of HHS, and the Administrator, CMS.

SUPPORT

Coordination, management, and operational services shall be provided by CMS.

ESTIMATED ANNUAL OPERATING COSTS AND STAFF YEARS

Estimated annual cost for operating the Panel, including travel expenses for members but excluding staff support, is $18,764.

The estimated annual staff support required for the Panel is 1.50 full-time equivalents at an estimated annual cost of $209,788.

DESIGNATED FEDERAL OFFICER

CMS will select a permanent fulltime or part-time Federal employee to serve as the Designated Federal Officer (DFO) to attend each Panel meeting and ensure that all procedures are within applicable statutory and regulatory directives. The DFO will approve and prepare all meeting agendas, call all of the Panel and subcommittee meetings, adjourn any meeting when the DFO determines adjournment to be in the public interest, and chair meetings when directed to do so by the official to whom the Panel reports. The DFO or his or her designee shall be present at all meetings of the full Panel and subcommittee(s).

ESTIMATED NUMBER AND FREQUENCY OF MEETINGS

Meetings shall be held up to three times a year. The Panel Chair shall facilitate meetings and the DFO or designee shall be present at all meetings. Meetings shall be open to the public except as determined otherwise by the Secretary or other official to whom the authority has been delegated in accordance with the Government in the Sunshine Act of 1976 (5 U.S.C. 552b(c)) and FACA. Notice of all meetings shall be published in the *Federal Register* as required by applicable laws and Departmental regulations. Meetings shall be conducted, and records of the proceedings kept, as required by applicable laws and departmental regulations.

In order to conduct the business of the Panel, a quorum is required. A quorum exists when a majority of currently appointed members is present at full Panel or subcommittee meetings or is participating in conference calls.

DURATION

Continuing.

TERMINATION

Unless renewed by appropriate action prior to its expiration, the charter for the Panel will expire two years from the date the charter is filed.

MEMBERSHIP AND DESIGNATION

The Panel shall consist of up to 15 total members who are representatives of providers. Members are selected by the Administrator's designee among the fields of hospital payment systems; hospital medical care delivery systems; provider billing and accounting systems; APC groups; CPT codes; HCPCS codes; the use of, and payment for, drugs, medical devices, and other services in the hospital outpatient setting; and other forms of relevant expertise. For supervision deliberations, the Panel shall include members that represent the interests of Critical Access Hospitals, who advise CMS only regarding the level of supervision for hospital outpatient services. Beginning in 2019, the panel may also include a representative of the provider with ASC expertise, who shall advise CMS only on OPPS APC rates, as appropriate, impacting ASC covered procedures within the context and purview of the panel's scope. All members shall have a minimum of 5 years of experience in their area(s) of expertise, but it is not necessary that any member be an expert in all of the areas listed above. Panel members are full-time employees of hospitals, hospital systems, or other Medicare providers. For purposes of this Panel, consultants or independent contractors are not considered to be representatives of providers.

All members shall serve on a voluntary basis, without compensation, pursuant to advance written agreement. Members of the Panel shall be entitled to receive reimbursement for travel expenses and per diem in lieu of subsistence, in accordance with Standard Government Travel Regulations. Panel members may serve for up to 4-year terms. A member may serve after the expiration of his/her term until a successor has been sworn in.

A Federal official, designated by the Administrator's designee, shall serve as the Chair and shall facilitate the Panel meetings. The Chair's term shall usually be for a period of 4 years, but it may be extended at the discretion of the Administrator or his/her duly appointed designee.

SUBCOMMITTEES

With the approval of the Administrator's designee, subcommittees consisting of two or more Panel members may be established to perform functions within the Panel's jurisdiction. One of the members will be designated by his/her peers as chair of the subcommittee. The Department Committee Management Officer will be notified upon establishment of each subcommittee and shall be provided information on its name, membership, function, and estimated frequency of meetings. The advice/recommendations of a subcommittee or working group must be deliberated by the Panel. A subcommittee may not report directly to a Federal official, but rather it must report to the parent Panel.

RECORDKEEPING

The records of the Panel and established subcommittees shall be managed in accordance with General Records Schedule 6.2. Item 2, or other approved Agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

FILING DATE

November 21, 2018

APPROVED

NOV 19 2018

Date

Alex M. Azar II