Flow Cytometry
Payment Changes for 2015

Presentation for BD
February 12, 2015

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In the CY2015 Medicare Physician Fee Schedule (MPFS) Proposed Rule, the Centers for Medicare & Medicaid Services (CMS) raised 3 issues relevant to flow cytometry payments:

- Using Outpatient Prospective Payment System (OPPS) rates to develop MPFS (non-institutional) rates when OPPS rates are lower than non-institutional rates
- Code 88185 (flow cytometry technical component add-on) identified as a potentially misvalued code.
- Modifying process for valuing new, revised, and potentially misvalued codes
Using OPPS rates

- In the CY 2014 Proposed Rule, CMS proposed to adjust rates for services paid under the MPFS to those paid in the OPPS, if the OPPS rates were lower than the MPFS rates and the service was performed at least 5-percent of the time in the hospital outpatient setting
  - Proposal would have results in approximately 75-percent reduction in the rates for the technical service codes for flow cytometry (88184 and 88185)
  - Broad coalition—including BD—challenged proposal
  - In the Final Rule for CY 2014, CMS agreed not to finalize the proposal, but indicated that it was still concerned about codes where rates were higher in MPFS than OPPS (site of service payment neutrality)
- In the CY 2015 Proposed Rule, CMS did not repropose using OPPS rates to establish MPFS rates, but did seek comments on use of OPPS data
Comments submitted to CMS: Using OPPS rates

- BD, through the PFS Pathology Payment Coalition, submitted comments saying:
  - Hospital outpatient **cost data** are a poor proxy for establishing Practice Expense Relative Value Units (PE RVUs) under the MPFS
  - OPPS **payment rates**, which are derived from hospital outpatient cost data, are also a poor proxy for establishing PE RVUs
  - Cost data or payment rates from a prospective payment system would not provide accurate estimates of physician practice expenses due to the inherent differences between a prospective payment system and a fee-for-service payment methodology

- In the Final Rule, CMS took no action, but we need to remain vigilant
CMS has authority to revalue codes which it believes are misvalued. Although revaluation can result in payment increases as well as decreases, in most circumstances the focus is on codes believed to be substantially overvalued.

- CMS has many screens or filters that it uses to identify potentially misvalued codes. In April 2014, Congress enacted the Protecting Access to Medicare Act (PAMA), giving CMS broader authority to identify potentially misvalued codes.
- In the CY 2015 Proposed Rule, CMS proposed to identify potentially misvalued codes by selecting the top 20 codes by specialty in terms of allowed charges.

- Code 88185 (flow cytometry technical component add-on) identified as a potentially misvalued code under this screen/filter.
Comments submitted to CMS: Misvalued codes

- Proposed methodology does not align with PAMA
- Although 88185 is identified as potentially misvalued according to CMS’s proposed methodology, this does not mean the code is misvalued
  - Flow cytometry used as a diagnostic test in treatment of cancer so not surprising that its use is prevalent in the Medicare population
  - 88185 is an add-on code reflecting each additional flow marker. Given the typical case of 20+ markers, it is not surprising that the volume of this code would be high
- In the Final Rule, CMS did not revalue 88185 or propose that it should be revalued in the near-term
  - However, we need to remain vigilant as CMS could refer the code for revaluation at any time
Under current procedures, CMS does not open the valuation of new/revised/misvalued codes for public comment until each year’s Final Rule:
- Valuations go into effect the next year and comments submitted can impact payment only for the following year
- Puts labs at risk of shortfalls for seriously undervalued codes for at least one year

In the CY 2015 Proposed Rule, CMS proposed a process to announce proposed valuations for some new/revised/misvalued codes with each year’s Proposed Rules so comments can inform the Final Rules before rates go into effect.
+ Comments submitted: Code valuation process

- Supported CMS’s proposed modified process for valuing new/revised/misvalued codes to provide more opportunity for notice and comment before rates go into effect.
- Urged CMS to further modify the process to allow rates for more new/revised/misvalued codes to be included in Proposed Rules than CMS had considered in its proposal.
- In the Final Rule, CMS modified its proposal to allow more new/revised/misvalued code rates to be included in the Proposed Rules.
  - American Medical Association is also revising the Current Procedural Terminology (CPT®) timeline to allow more codes to proceed to the RUC earlier in each yearly cycle (but this creates even greater lag time to adoption of new codes).
## CY 2015 vs CY 2014 rates: Good news

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<thead>
<tr>
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<td></td>
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<td>NON-FAC</td>
<td>FACILITY*</td>
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*”Facility” rates reflect rates paid to physicians when the procedure is performed in a facility setting (e.g., hospital). The facility receives a separate payment under a different payment system (e.g., OPPS)
Rates are based upon national RVUs and the CY 2015 conversion factor; no adjustment for geographic variability is made
## Increased rates due to modest RVU increases

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*"Facility" RVUs apply to physician payments when the procedure is performed in a facility setting (e.g., hospital). The facility receives a separate payment under a different payment system (e.g., OPPS).

The RVUs shown are national RVUs; no adjustment for geographic variability is made.
### Deeper dive shows increases net of +s and −s

<table>
<thead>
<tr>
<th>HCPCS</th>
<th>SHORT DESCRIPTOR</th>
<th>WORK RVU</th>
<th>NON-FAC PE RVU</th>
<th>FACILITY* PE RVU</th>
<th>MALPRACTICE RVU</th>
<th>2015 CONV FACTOR</th>
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<td>0.79</td>
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<td>$ 35.7547</td>
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<tr>
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<td>0.84</td>
<td>0.84</td>
<td>0.1</td>
<td>$ 35.7547</td>
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*”Facility” RVUs apply to physician payments when the procedure is performed in a facility setting (e.g., hospital). The facility receives a separate payment under a different payment system (e.g., OPPS)

The RVUs shown are national RVUs; no adjustment for geographic variability is made.

Values shown in **green** increased from CY 2014

Values shown in **red** decreased from CY 2014
Summary

- BD is working with the PFS Pathology Payment Coalition to stay on top of CMS proposal that could negatively impact payments for flow cytometry
- For CY 2015, CMS raised 3 issues that could have impacted flow payments
  - All 3 issues resolved favorably in the Final Rules
  - However, we must remain vigilant as CMS continues to scrutinize payments and may re-propose or propose new ideas that could have a negative impact on payment for flow cytometry
- CY 2015 MPFS payments increased modestly for flow cytometry procedures notwithstanding a drop in the CY 2015 conversion factor from the CY 2014 CF and minor decreases in the malpractice RVUs
  - However, we remain at risk in future years if CMS believes flow cytometry rates are overvalued
Questions?