



December 9, 2009

Secretary Kathleen Sebelius
Office of the Secretary
Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

Dear Secretary Sebelius:

The American College of Gastroenterology (ACG), the American Gastroenterological Association (AGA), and the American Society for Gastrointestinal Endoscopy (ASGE) are disappointed with the decision by the Centers for Medicare and Medicaid Services (CMS) to move forward with the Jan. 1, 2010 implementation of the new consultations billing policy despite strong objections from the physician community.

With less than a month before the new policy takes effect, little guidance has been provided to physicians about how to use the visit codes in lieu of consultation codes. Specifically, CMS guidance is needed on several outstanding issues, including the following:

- There are five consultation codes, but only three initial hospital visit codes. CMS has not provided a direct crosswalk between service levels in the hospital for the initial evaluation, nor for the outpatient visit services. We believe the lack of clear guidance will result in denials of claims, re-submissions, and appeals, all of which could create claims backlogs and cash-flow problems.
- Lack of clarification on how this new billing policy will be applied when Medicare is a secondary payer.
- CMS should confirm that physicians who furnish a consultation to a Medicare beneficiary cannot bill the beneficiary for his or her charge for the service after providing advance beneficiary notice and billing a CPT consultation service code to receive a denial.
- CMS should confirm that the relative value units assigned to the CPT consultation codes will be publicly available to enable use by private payers.
- CMS should clarify how the definition of a “new patient” found in the Medicare Claims Processing Manual, in Chapter 12, 30.6.7A, applies to office/outpatient services codes being billed to report consultations.
- CMS should confirm that physicians who furnish a consultation at the request of a physician who is a member of the same group can bill an initial hospital (or nursing facility) care service for an inpatient

consultation; and a new patient office visit in the outpatient setting. This is especially important for gastroenterology as other members of the group may have a subspecialization that warrants a consultation.

- CMS should clarify if physicians are permitted to bill a consultation service to Medicare to receive a denial and then bill a secondary payer for a consultation code, if the secondary payer continues to recognize the consultation service codes.

It is our understanding that CMS intends to post additional information on the Medicare Learning Network and will issue a Change Request before the end of the year. Even if additional information is published before the January 1 implementation date, it will not afford our professional societies sufficient time to educate our physician members on how to bill under the new policy. **We therefore respectfully request that CMS delay implementation of the new billing policy for one year.**

In our comments to CMS in August on the physician proposed rule for 2010, we noted several policy-related concerns with the elimination of consultation codes. While our primary objective at this time is to ensure that a lack of guidance from CMS does not result in an undue hardship on physician practices and their patients, a delay would also afford an opportunity for policy issues to be thoroughly vetted.

The ACG, the AGA, and the ASGE thank you in advance for your consideration of our concerns. Should you require additional information, please contact Brad Conway, Vice President of Public Policy, ACG at (301) 263-9000, Anne Marie Bicha, Director of Regulatory Affairs, AGA, at (240) 482-3223, or Camille Bonta, consultant to ASGE, at (202) 320-3658.

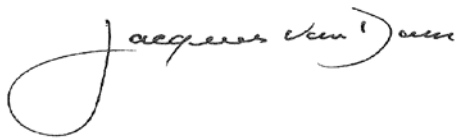
Sincerely,



Philip O. Katz, M.D., FACP
President, American College of Gastroenterology



Robert Sandler, MD, MPH, AGAF
Chair, American Gastroenterological Association



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