

## **Proposed 2011 Physician Fee Schedule Includes Slight INCREASE in Echocardiography Payment for Next Year.**

On June 25, 2010, CMS released the proposed 2011 Physician Fee Schedule, including proposed relative value units for echocardiography services for 2011. Attached is a chart with the proposed RVUs and estimated allowances for echo services. A second chart, which provides the RVUs and estimated allowances for a number of non-echo services, is also provided. **Please note that these charts are based on the assumption that the conversion factor will be \$36.8728 in 2011, which does not reflect SGR reductions scheduled to go into effect next year - or additional conversion factor reductions of about 7.9% that would result from other changes that CMS is proposing. Thus, this is a best case scenario.**

**Significantly, the Proposed Rule includes a slight increase in the RVUs for echocardiography services (especially technical component services), instead of the substantial decrease that had been projected as the result of last year's rule.** Under the proposal, the Medicare allowance for a TTE (with spectral and color Doppler) (CPT 93306)(global) will be approximately \$250 in 2011; Medicare payment for stress echocardiography (including the stress test) (CPT 93351)(global) will be approximately \$267, **based on the current conversion factor.**

Due to the complexity of the fee schedule methodology, it is difficult to determine exactly what factors resulted in this turn-around. It is clear that CMS is continuing to phase in the practice expense reductions based on the PPIS data which resulted in significant payment reductions for echo this year, and that RVUs for echo will continue to decline in 2012 and 2013 as the result of the incorporation of the PPIS into the fee schedule.

It appears that the increase in RVUs for 2011 over the RVUs that we expected is due to “one-time” changes in the Medicare Economic Index (MEI) used to calculate RVUs. However, to make these changes budget-neutral, CMS is also proposing an additional reduction in the conversion factor, over and above the reduction that would occur under the SGR formula. IF CMS drops its MEI proposed changes in the final rule, the RVUs for echo will be lower than those included on the attached chart.

A number of policy proposals set forth in the Notice of Proposed Rulemaking (NPR) may be of interest to ASE:

- CMS is proposing a process for annual updating of the prices of equipment and supplies. Under the proposed process, changes of existing prices must be submitted by December 31, and CMS' proposed responses are to be included in the proposed rule for the following year. If CMS refuses to consider a request to update the equipment and supplies data for echocardiography to include an “echo room” as part of the rulemaking process this year, we may be able to use the proposed new process as a mechanism for raising the issue in the future.
- CMS is required under PPACA to establish a validation process for potentially “misvalued” codes and is soliciting comments on the validation process. CMS specifically indicates that time/motion studies may be used in this process. ASE is

considering including in its comments a request that CMS establish transparent rules in choosing which codes to “validate,” since the validation process easily could be misused to target “disfavored” procedures.

- The NPR includes a proposed protocol for group practices that furnish MRI, PET or CT services under the Stark law’s group practice exception, to disclose to their Medicare patients alternative suppliers of those services. CMS is soliciting comments on a number of issues related to this disclosure requirement:
  - Whether diagnostic imaging services other than CT, MRI and PET should be included in the disclosure requirement.
  - Whether hospitals, as well as physicians’ offices and IDTFs, should be included on the list of alternatives.
  - Whether CMS should adopt a standard under which a group practice would only have to list alternatives within a 25 mile radius of the practice, or whether another standard would be appropriate.
  - Whether a minimum of 10 suppliers should be included on the list, or whether there should be other minimum criteria applicable to the list.

If there are no alternate suppliers within 25 miles, the group practice need not provide a list, but must disclose that the patient has the option to obtain the services from an alternative supplier. The list must include the name, address, phone number and distance from the group practice. There is no exception proposed for emergency or time sensitive studies. The patient’s signed acknowledgement of receipt of the disclosure must be maintained as part of the medical record. These requirements will not become effective until January 1, 2011, when the final rule becomes effective.

ASE is considering submitting comments opposing the extension of these requirements to ultrasound services. In addition, ASE is considering taking the lead in a letter from all ultrasound organizations to CMS along the same lines, in order to make the point even more strongly.

- The PQRI program will continue in 2011, and many of the elements of the program remain unchanged. However, in 2011, Maintenance of Certification (MOC) will enable a physician who qualifies for a PQRI incentive to also qualify for an additional .5% incentive payment. The Proposed PFS Rule expands the opportunity for groups to participate in a group practice PQRI, by decreasing the number of physicians required to be in the group from 200 to 2. CMS indicates that it views registry-based quality measures favorably and that it is likely to increase the number of registries that qualify participants for the PQRI bonus. CMS also appears to view EHR-based reporting

favorably, since clinical quality data is extracted from the EHR for submission. Please note that CMS is required to establish a public website listing physicians who qualify for PQRI incentive payments, by no later than January 1, 2011. As required by the health reform legislation, CMS is also proposing an informal process for physicians to appeal decisions regarding whether they qualify for the PQRI incentive payments.

ASE's will be filing its response to the proposed NPR in August.