AAP Position on Medicare Consultation Policy

In its 2010 Resource-Based Relative Value Scale (RBRVS) final rule, the Centers for Medicare and Medicaid Services (CMS) decided to eliminate payment for consultation codes (99241–99245; 99251–99255) in the Medicare program effective January 1, 2010. In order to maintain Medicare budget neutrality, the consultation codes’ relative values will be redistributed to the new and established office visit codes (99201–99215) and the initial hospital (99221–99223) and nursing facility (99304–99306) codes.

The American Academy of Pediatrics (AAP) was not initially supportive of CMS’ proposal as outlined in the 2010 RBRVS proposed rule, which was published on July 13, 2009. Following is an excerpt of Academy comments submitted to CMS toward advocating for reconsideration of the policy:

CMS bases this proposed Medicare policy on the following assumptions:

1) “Currently, consultation services are predominantly billed by specialty physicians... (and) primary care physicians infrequently furnish these services” (p. 33551)

AAP comment: CMS is basing this information on the Medicare Part B Database (BMAD), which includes only Medicare claims. In the non-Medicare realm, consultation codes are utilized by primary care physicians in order to grant pre-operative clearance or to provide expert opinion in a particular competency (eg, management of a chronic disease in the medical home). For this reason, eliminating payment for consultation codes will not necessarily unilaterally affect specialists.

2) “…the rationale for a differential payment for a consultation service is no longer supported because documentation requirements are now similar across all E/M services” (p. 33553)

AAP comment: CPT guidelines continue to include specific reference to a required written report from the consultant to the requesting physician in order to appropriately report the consultation codes. This is not presently a requirement for other evaluation and management codes. In addition, there is increased practice expense in meeting the requirement that there be a documented request in the medical record of the consulting physician (ie, a phone call to the requesting practice and/or completion of a consultation report).

3) “The existing consultation coding definition in the AMA CPT definition remains ambiguous and confusing…and without a clear definition of transfer of care” (p. 33552)

AAP comment: The AMA’s Principles of CPT Coding (fifth edition, p. 69) includes guidelines on “Consultation vs Referral,” making specific reference to the fact that “careful documentation of the services requested and provided will alleviate” confusion between the two concepts. Medical specialty societies were involved in developing these guidelines and actively educate their members regarding the distinction between these two services.
4) The redistribution of relative values from the consultation codes to the new and established office visit codes and the initial hospital and nursing facility visit codes will result in budget neutrality

AAP comment: While the CMS proposal may result in Medicare budget neutrality, it will have a profoundly negative impact on payment to non-Medicare providers. The Academy understands that the underlying intent of the RBRVS physician fee schedule is to communicate Medicare payment policy. However, RBRVS has evolved over the years as the “gold standard” fee schedule upon which most non-Medicare payers develop their own payment policies. It is through this evolution that CMS has subsumed a social responsibility to ensure that Medicare policies do not have unintended negative consequences in the non-Medicare realm. If non-Medicare payers follow Medicare policy and also choose to discontinue payment for consultation codes, physicians reliant on Medicaid and commercial carriers will experience significant reductions in payment.

We acknowledge the intent of the proposed policy change is to improve payments for primary care physicians in contrast to specialists. However, there is a great difference between fees generated by specialists who do not routinely report procedure codes (“cognitive” specialists) and those whose practices typically involve procedures (“procedural” specialists.) The former rely on consultation codes for adequate reimbursement because many of their referrals are much more complex than can be reflected using the new patient office visit codes (ie, 99201–99205) customarily used in primary care. These “cognitive” specialists are essential to help the primary care providers maintain a medical home for children with complex and chronic special health care needs.

Finally, if CMS does decide to implement this proposal, the Academy strongly urges the Agency to continue to publish the consultation codes’ RUC–recommended relative values on the RBRVS physician fee schedule. This might then allow those non-Medicare payers that chose to continue to pay for consultation codes to utilize these values in establishing their payment rates.

While the Medicare consultation policy will become effective on January 1, 2010, please note the following:

• Consultation codes are not being deleted from CPT nomenclature
• Consultation codes will remain on the RBRVS fee schedule with their established values
• This is a Medicare payment policy and may not be adopted by other payers
• However, if non-Medicare payers do choose to adopt this policy, it is imperative that they also make the budgetary accommodations as have been done in the Medicare program. The Medicare funds saved in not paying for consultations have been used to increase the 2010 RBRVS relative value units for other evaluation and management (E/M) codes, including the new and established office visit codes (99201–99215) and the initial hospital care codes (99221–99223). Non-Medicare payers that follow the Medicare consultation policy must also utilize the higher RVUs for these non-consultation E/M codes.
The Academy is currently working with non-Medicare payers to discourage adoption of the Medicare consultation policy.

For questions, please contact the AAP Coding Hotline at aapcodinghotline@aap.org.