AAOS
American Association of Orthopaedic Surgeons

CY 2021 Medicare Hospital Outpatient Prospective Payment System (OPPS) Proposed Rule Executive Summary

On August 4, 2020 the Centers for Medicare and Medicaid Services (CMS) released the Calendar Year (CY) 2021 Medicare Hospital Outpatient Prospective Payment System (OPPS) proposed rule (CMS-1736-P). AAOS will be submitting formal comments to CMS, due on October 5, 2020. Below is a high-level summary of key proposals:

Proposed Changes to the Inpatient Only (IPO) List

-CMS is proposing a three-year transition to the complete elimination of the IPO list, beginning with 266 musculoskeletal services being removed for CY 2021 (See Table 31) and complete elimination of all 1,740 services on the list by CY 2024.

-CMS is seeking comment on whether procedures proposed for removal from the IPO for CY 2021 may meet the criteria to be added to the ASC Covered Procedure List.

-CMS is proposing to continue the 2-year exemption from Beneficiary and Family-Centered Care Quality Improvement Organizations (BFCC-QIOs) referrals to Recovery Audit Contractors (RACs) and RAC reviews for "patient status" (otherwise known as site-of-service) for procedures removed from the IPO under the OPPS rule effective January 1, 2021.

-CMS states that the 2-midnight benchmark will remain an essential metric to guide when Part A payment for inpatient hospital admissions is appropriate.

Changes to the ASC Covered Procedure List (CPL)

-CMS is proposing to add 11 procedures to the ASC CPL, **including total hip arthroplasty** (CPT 27130) (See Table 40 for complete list of the procedures proposed to be added to the ASC CPL).

-CMS is proposing two options for updating the process for adding procedures to the ASC CPL:

(1) CMS proposes to establish a nomination process beginning in CY 2021 for those procedures that would be added beginning the following calendar year in which external stakeholders, such as professional specialty societies, would operate under suggested parameters to nominate procedures where CMS would subsequently review and finalize through rulemaking.

(2) CMS proposes to revise the criteria for covered surgical procedures for the ASC payment system by keeping the general standards that presently require covered surgical procedures to be surgical procedures specified by the Secretary and published in the Federal Register, separately paid under the OPPS, not expected to pose a safety risk to a beneficiary when performed in the ASC, and for which the beneficiary would not be expected to need active medical monitoring and care at midnight following the procedure.

Under proposal number two, CMS estimates that 270 surgery or surgery-like codes would be added to the CPL that are not on the current IPO list (See Table 41)

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Prior Authorization

-CMS is proposing to add the following groups of services to the prior authorization list beginning on July 1, 2021: cervical fusion with disc removal and implanted spinal neurostimulators.

- This includes CPT codes 63685, 63688, 63650, 22551, and 22552

Physician-Owned Hospitals

-CMS is proposing the removal of unnecessary restrictions on high Medicaid facilities and the inclusion of beds in a physician-owned hospital's baseline consistent with State law.

-CMS defines high Medicaid facilities as those "whose annual percent of total inpatient admissions under Medicaid is equal to or greater than the average percent with respect to such admissions for all hospitals in the county in which the hospital is located during the most recent 12-month period for which data are available", is not the only hospital in a county, and does not discriminate against beneficiaries of Federal health care programs.

-CMS is proposing to allow high Medicaid facilities to request an exception to the facility expansion prohibition more frequently than once every 2 years, however the facility may only submit one exception request at a time.

-CMS is proposing to lift the restriction that permitted expansion of facility capacity may not result in the number of operating rooms, procedure rooms, and beds for which the hospital is licensed increasing beyond 200 percent of the hospital's baseline number of these rooms, as well as lifting the restriction on facility expansion only in facilities on the hospital's main campus.

Overall Hospital Quality Star Ratings

-CMS is proposing to establish and update the methodology used to calculate Overall Hospital Quality Star Ratings beginning in CY 2021 by updating and simplifying how the ratings are calculated, reducing the total number of measure groups, and stratifying the Readmission measure group based on the proportion of dual-eligible patients.

OPPS Payment for Devices

-CMS is requesting comment on whether the SpineJack Expansion Kit system meets the substantial clinical improvement criterion for establishment of a device category and the pass-through payment criteria.

OPPS Payment Changes for Drugs, Biologicals, and Radiopharmaceuticals

-CMS is proposing to end pass-through payment status for 26 biologicals and drugs in the CY 2021.

-CMS is proposing that for policy-packaged drugs (anesthesia, biologicals) the pass-through payment be equal to ASP+6 percent minus payment offset for the portion of the otherwise applicable OPD fee schedule that the Secretary determines is associated with the drug or biological as described in section V.A.6 of the proposed rule.

The complete rule can be found here and the tables can be found here.