



January 19, 2016

Mr. Daniel Levinson, Inspector General
U.S. Department of Health & Human Services
Office of Inspector General
330 Independence Avenue, SW
Washington, DC 20201

**Subject: U.S. Department of Health and Human Services Office of Inspector General
(HHS-OIG) Work Plan, Fiscal Year 2016**

Inspector General Levinson:

On behalf of the American Society for Radiation Oncology (ASTRO), it is my pleasure to provide comments on the Department of Health and Human Services, Office of the Inspector General (HHS-OIG) Fiscal Year (FY) 2016 Work Plan released on November 2, 2015. We appreciate your consideration of the issues raised in this letter.

ASTRO members are medical professionals practicing at hospitals and cancer treatment centers in the United States and around the globe. They make up the radiation treatment teams that are critical in the fight against cancer. These teams include radiation oncologists, medical physicists, medical dosimetrists, radiation therapists, oncology nurses, nutritionists and social workers. They treat more than one million cancer patients each year. We believe this multi-disciplinary membership makes us uniquely qualified to provide input on the inherently complex issues related to Medicare payment policy and coding for radiation oncology services.

ASTRO appreciates the work the HHS-OIG performs in detecting and preventing fraud, waste, and abuse and identifying opportunities to improve program economy, efficiency, and effectiveness. ASTRO agrees that this work is critical to maintaining the integrity of the Medicare program and the protection of its beneficiaries. We understand that the HHS-OIG makes continuous adjustments as appropriate to its work plans, and offer the following information for HHS-OIG's consideration as the agency implements its FY 2016 Work Plan.

The FY 2016 Work Plan identifies intensity modulated radiation therapy (IMRT) as one of the target areas for potential improper billing practices in the hospital outpatient setting. The Work Plan indicates that HHS-OIG will determine whether payments for IMRT were made in accordance with Federal rules and regulations using the following publications: *CMS's Medicare Claims Processing Manual, Pub. No. 100-04, Ch. 4, § 200.3.2* and *OAS; W-00-15-35740; various reviews; expected issue date: FY 2016*. Specifically, HHS-OIG will investigate services that should not be billed when they are performed as part of developing an IMRT plan (CPT 77301).

In order to have an accurate understanding of whether payments were made for IMRT planning in accordance with Federal rules and regulations, ASTRO submits that the above-referenced audit should account for the considerable confusion that existed within the industry prior to the publication of the Final Rule for the CY 2016 Hospital Outpatient Prospective Payment System (HOPPS) (CMS-1633-FC). This confusion may have resulted in the incorrect reporting of services billed with CPT code 77301.

Several active and recently retired Local Coverage Determinations (LCDs) issued by Medicare Administrative Contractors contained conflicting guidance on the services that can be billed with CPT code 77301 for IMRT planning. For example, in an LCD revised July 15, 2014, First Coast Service Options, Inc. permitted the reporting of simulation-aided field setting (CPT code 77290) during a course of IMRT for the initial setup of the patient. In an LCD revised November 1, 2014, Wisconsin Physician Service Insurance Corporation allowed the reporting of simulation codes (CPT codes 77280-77295) with an IMRT plan as long as no more than one simulation was reported on any given day. Please see the attached documentation for these and other examples.

In May 2015, ASTRO clarified the proper reporting guidelines for IMRT planning services in the coding guidance article “Process of Care: Treatment Preparation,” a copy of which is enclosed with this letter. Following the issuance of the article, ASTRO worked directly with the Division of Outpatient Care (DOC) under the Hospital and Ambulatory Policy Group at CMS to review and confirm the appropriate list of codes that should not be reported with an IMRT plan. ASTRO suggested that CMS issue clarifying guidance regarding which services should not be reported with CPT code 77301 when they are performed as part of developing an IMRT plan.

In October 2015, CMS addressed the guidance surrounding CPT code 77301 in the final rule (CMS-1633-FC) for the CY 2016 HOPPS.¹ In that rule, **CMS also acknowledged that the agency “will revise and update the Medicare Claims Processing Manual and coding guidance in the near future to ensure that this policy is more directly stated.”**²

The existence of conflicting, contemporaneous guidance prior to CMS’s recognition of the need to issue clarifying guidance on billing for IMRT planning services in the final CY 2016 HOPPS rule corroborates ASTRO’s position that billing for IMRT planning services has been an area of widespread misunderstanding. Therefore, ASTRO strongly urges the HHS-OIG to limit its review of Medicare outpatient payments for IMRT services to those claims submitted **after the clarifying guidance was issued by CMS in the final CY 2016 HOPPS rule**. We believe that investigating claims prior to this date would create an inaccurate picture of the current state of providers’ compliance with Federal rules and regulations governing payment for IMRT services.

¹ 80 Fed. Reg. 7401 (Nov. 13, 2015). “Payment for the services identified by CPT codes 77014, 77280 through 77295, 77305 through 77321, 77331, and 77370 is included in the Ambulatory Payment Classification payment for CPT code 77301 (IMRT planning). These codes should not be reported in addition to CPT code 77301 (on either the same or a different date of service) unless these services are being performed in support of a separate and distinct non-IMRT radiation therapy plan for a different tumor.”

² *Id.*

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We look forward to continued dialogue with HHS-OIG officials. Should you have any questions or concerns, please contact Erin Young, Manager, Health Policy Manager, at 703-839-7416 or erin.young@astro.org

Respectfully,



Laura I. Thevenot
Chief Executive Officer

Enclosures:

First Coast Service Options, Inc. Local Coverage Determination (LCD): Intensity Modulated Radiation Therapy (IMRT) (L28892). Revised July 15, 2014.

Wisconsin Physicians Service Insurance Corporation. Local Coverage Determination (LCD): Radiation Oncology Including Intensity Modulated Radiation Therapy (IMRT) (L30316). Revised November 1, 2014.

Noridian Healthcare Solutions, LLC. Local Coverage Determination (LCD): Intensity Modulated Radiation Therapy (IMRT) (L24318). Revised September 1, 2014.

“Treatment Preparation: Process of Care.” The American Society for Radiation Oncology (ASTRO). May 2015.