

August 10, 2020

Ing-Jye Chang  
Acting Director  
Ryan Howe  
Deputy Director  
Hospital and Ambulatory Policy Group  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

RE: Medicare Administrative Contractor Coverage of Three-Dimensional Conformal Radiation Therapy

Dear Ms. Chang and Mr. Howe:

The American Society for Radiation Oncology (ASTRO)<sup>1</sup> appreciates the Agency's swift action in response to the COVID-19 public health emergency and the flexibilities that have been granted to radiation oncologists so that they may continue to provide life-saving cancer care during these difficult times. That said, we continue to hear from members across the country regarding denials of claims containing Three-Dimensional Radiotherapy Plan (CPT 77295), Simulation-aided field setting codes (77280-77290), and Continuing Medical Physics Consultation (CPT 77336). Despite efforts to resolve this issue with the Agency, Medicare Administrative Contractors (MACs) continue to inappropriately cite the June 2019 Inspector General (OIG) report, *Medicare Could Have Saved Millions of Dollars in Payments for Three-Dimensional Conformal Radiation Therapy Planning Services*, as the basis for these denials. **ASTRO urgently requests that the Center for Medicare and Medicaid Services (CMS) intervene and direct MACs to cease inappropriate denials and remit payment for these claims.**

As you may remember, we raised concerns regarding the OIG reporting during our February 4, 2020 meeting with you and members of the HAPG team. At that time, you indicated that the Agency understood the distinctions between 77295 and 77301 and had no plans to act on the OIG recommendation, but that the issue would continue to be monitored. Despite that discussion and a subsequent conference call on March 26, 2020 regarding several initial denials, we are now hearing from radiation oncologists, across all seven MACs, that they are experiencing denied claims based on the OIG report.

Beginning May 2020, ASTRO became aware of practices in Palmetto and Wisconsin Physician Services (WPS) jurisdictions being informed that denials for CPT codes 77295, 77280-77290, and 77336 are based on National Correct Coding Initiative (NCCI) procedure to procedure (PTP) edits that include services for image guidance, simulation, and isodose planning billed within 14 days of CPT code 77295. In addition, practices in Novitas jurisdictions were told that these denials are due to the OIG report. In response to these denials, ASTRO sent comment letters to each MAC outlining the errors in their rationale, which are enclosed for your review. At their request, ASTRO members sent appeals to Palmetto, WPS, and Novitas;

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<sup>1</sup> *ASTRO members are medical professionals, who practice at hospitals and cancer treatment centers in the United States and around the globe and make up the radiation therapy treatment teams that are critical in the fight against cancer. These teams often include radiation oncologists, medical physicists, medical dosimetrists, radiation therapists, oncology nurses, nutritionists and social workers, and 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.*

however, the denials were upheld. By late June, National Government Services, CGS Administrators, and Noridian followed suit and began denying claims containing CPT codes 77295, 77280-77290, and 77336.

ASTRO believes that **all** of these denials are inappropriate and stem from the aforementioned OIG report. In its report, the OIG intended to determine possible savings to Medicare if billing requirements for CPT code 77301 Intensity Modulated Radiation Therapy (IMRT) Treatment Planning were applied to CPT code 77295 Three-Dimensional Radiotherapy Plan; however, this premise does not recognize the distinctions in the process of care associated with CPT codes 77295 and 77301. The OIG report makes inappropriate conclusions based on inaccurate information regarding the building blocks associated with the valuation of CPT code 77295, as well as the application of NCCI edits for services associated with the delivery of three-dimensional radiotherapy planning. The OIG identified medically necessary services that are included in the valuation of 77301, but are not included in the valuation of 77295, and then identified “savings” if these services were not paid separately and still not included in the valuation of 77295. These postulated “savings” are nothing more than a tally of payments that could be withheld from providers for medically necessary services to beneficiaries and do not indicate that these codes have similar building blocks

According to the OIG report, there is a *planning* and *treatment delivery* phase in three-dimensional radiotherapy planning: “During the planning phase digital data sets and 3D computer images of beneficiaries’ treatment site (a tumor) are used to develop a complex treatment plan to develop highly conformed (focused) radiation while sparing normal adjacent tissue. During the delivery phase, radiation is delivered to the treatment site at the various intensity levels prescribed in the treatment plan.” This is incorrect because there is no treatment delivery work included in the procedure described by 77295. The three-dimensional radiotherapy plan procedure is a multi-step process, which involves both the physician and dosimetrist work, including digitally reconstructed radiographs of the beam’s eye view and either cross-sectional reconstructions of the dose distributions in three dimensions or review of the dose-volume histograms of the resultant treatment. Again, **three-dimensional radiotherapy planning (77295) involves a multistep process, but does not include treatment delivery**, contrary to what is stated in the OIG report.

The report also does not recognize that the three-dimensional radiotherapy planning work included in CPT code 77295 does not include simulation, as described by CPT codes 77280-77290. Simulation is the process of defining relevant normal and abnormal target anatomy and acquiring the images and data necessary to develop the optimal radiation treatment for the patient. Therefore, CT simulation is the act of establishing the treatment portals or arrangement prior to creating the actual plan or performing the treatment delivery. During CT simulation, the radiation oncologist, with the assistance of the radiation therapist, utilizes simulation equipment, to define the exact treatment position for the patient. For three-dimensional radiotherapy planning, CT simulation can be described by the family of simulation codes (77280-77290), which may be reported separately from three-dimensional radiotherapy planning. In contrast, CPT code 77301 always includes the simulation process.

Additionally, the report disregards the valuation of CPT code 77295. In 2012, CPT Code 77280 *Simulation, simple* was identified in a RUC screen for resurvey. The RUC requested that the entire family of radiation simulation codes (77280, 77285, 77290 and 77295) be resurveyed. As part of that process, ASTRO secured RUC support for removing CPT code 77295 from the simulation family of codes. It was revised through the CPT/RUC process as a planning code. CPT code 77295 was revalued, effective January 1, 2014, to include the physician work associated with the planning process that establishes the correct technical details to properly deliver the desired radiation dose to the target. The code accounts for three-dimensional planning for dose delivery, with the generation of a dose volume

histogram. Simulation Codes 77280-77290 were frequently billed with CPT code 77295 even before it was designated as a planning code. Due to the process of care associated with three-dimensional plans, there cannot be a three-dimensional dose display without prior simulation. As such, a simulation code is frequently billed with CPT code 77295 but not on the same date of service. **CPT code 77295 code is not designed to nor intended to include simulation services, nor does the AMA RUC approved physician work and practice expense (staff labor, medical supplies and equipment) include the work or practice expense of any other code.**

Furthermore, the OIG matched payment for CPT code 77295 with individual radiation therapy planning services listed in the NCCI edits, including services for image guidance, simulation, and isodose planning, billed up to 14 days before CPT code 77295. The report fails to note that NCCI edits take effect if a provider reports two codes of an edit pair for the same beneficiary on the *same date of service*. There are many reasons why these services are billed on a different date of service prior to a Three-Dimensional Radiotherapy Plan. For instance, an additional CT simulation may be performed to assess the compatibility of the treatment field arrangement with the linear accelerator geometry or other verification or localization purpose.

**Most radiation oncology clinics report 20-30% or more revenue declines during the COVID-19 pandemic, and these inappropriate denials are adding completely unnecessary financial strain, stress and administrative burden on providers. ASTRO urges CMS to issue clarifying guidance to all MACs and require them to reimburse providers for Simulation and Continuing Medical Physics Consultation services in combination with the delivery of the Three-Dimensional Radiotherapy Plan that are essential to Medicare patients' safety.**

Thank you for your consideration of our comments. Should you have any questions or wish to discuss our recommendations further, please contact Jessica Adams, Health Policy Analyst (703) 839-7396 or via email at [Jessica.adams@astro.org](mailto:Jessica.adams@astro.org).

Sincerely,



Laura I. Thevenot  
Chief Executive Officer

Enclosed:      March 25, 2019 Letter to OIG  
                    June 2, 2020 Letter to Palmetto GBA  
                    June 2, 2020 Letter to Wisconsin Physicians Services  
                    June 2, 2020 Letter to Novitas Solutions, Inc