



December 29, 2015

Mr. Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1631-P
P.O. Box 8013
7500 Security Boulevard
Baltimore, MD 21244-8013
Submitted electronically: <http://www.regulations.gov>

Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2016

Dear Acting Administrator Slavitt:

The American Society for Radiation Oncology (ASTRO) appreciates the opportunity to provide written comments on the “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2016” published in the Federal Register as a final rule on October 30, 2015.

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.

In this letter we address a number of topics that will impact our membership and the patients they serve including:

- **Radiation Treatment Delivery and Image-Guided Radiation Therapy (IGRT)**
- **Equipment Utilization Rate Assumption for Linear Accelerators**
- **Interstitial Radiation Source Codes – CPT Codes 77778 and 77790**
- **Superficial Radiation Treatment Delivery – CPT Code 77401**
- **Radiation Therapy Centers**

Radiation Treatment Delivery and IGRT

In the final 2016 Medicare Physician Fee Schedule (MPFS), CMS did not finalize its proposal to implement the new set of conventional radiation treatment delivery, IMRT or IGRT codes. The

agency decided to retain the 2015 G-codes and values for another year. CMS reasons that significant changes need to be made to the codes before the agency can develop accurate payment rates under the MPFS. The changes CMS seeks include: developing a code set that recognizes the difference in costs between imaging guidance modalities; making sure that this code set facilitates valuation that incorporates the cost of imaging based on how frequently it is actually provided; and developing treatment delivery codes that are structured to differentiate payment based on the equipment resources used.

ASTRO appreciates CMS' decision to mitigate a large portion of the proposed cuts. We understand CMS' decision to delay the implementation of the new radiation oncology treatment delivery code set. Significant time and resources were expended over the last two years to update the code set. A good faith effort was made to put forth recommendations, which we believe are accurate and reasonable. Moving forward, ASTRO stands ready to work with the CMS to address concerns regarding the use of image guidance and its application in the delivery of radiation oncology.

Additionally, ASTRO appreciates the concern that CMS expressed regarding the rank order anomaly found in the proposed RVUs for the conventional treatment delivery codes. In radiation oncology, there are several code families with simple, intermediate and complex rank order. ASTRO believes establishing rank order anomalies within these families pose several risks, including the unintended consequence of down-coding. We look forward to working with CMS to address this issue as we prepare new CPT and RUC recommendations for this code set.

Equipment Utilization Rate Assumption for Linear Accelerators

CMS finalized its decision to adjust the equipment utilization rate assumption over a two year period, beginning with an increase to a 60 percent utilization rate in 2016 and then moving to 70 percent in 2017. The agency continues to believe that the default assumption of a 50 percent utilization rate is inaccurate for the capital equipment used in radiation treatment services. In the final rule, CMS points out that the same type of linear accelerator is used to furnish several levels and types of external beam radiation treatment services. Based on this understanding, CMS believes it is inaccurate to continue the assumption that equipment is only used for 25 out of a possible 50 hours per week.

Additionally, CMS will apply the equipment utilization rate to all equipment items included in the code. According to CMS, this is consistent with the application of the 90 percent utilization rate that is applied to advanced diagnostic imaging.

ASTRO appreciates CMS' concern regarding the value and use of the linear accelerator in the provision of radiation therapy. We look forward to working with the agency as it as stakeholders analyze this code set and propose updated solutions. ASTRO continues to be concerned with the increase in the utilization rate and its impact on our members.

Interstitial Radiation Source Codes – CPT Codes 77778 and 77790

CPT code 77778 *LDR Brachytherapy Complex* was revised through the CPT/RUC process to include supervision and handling of brachytherapy sources previously reported with CPT code 77790 *Supervision and handling, loading of radiation source*. The RUC recommended that 77790 be valued without work and that 77778 be valued with a work RVU of 8.78. CMS has finalized the recommendation that 77790 be valued without physician work.

The agency expressed concern about the recommended RUC work RVU valuation for 77778. CMS questioned the reduction of time and the relationship to the RUC recommended work RVUs. The survey for 77778 indicated a total service time of 220 minutes with a median work RVU of 8.78. The RUC reduced that time to 145 minutes but retained the work RVU at 8.78. In the final MPFS, CMS expressed concern that it was unable to reconcile the RUC's decision to reduce the work time, by 50 percent, without also revising the work RVU. CMS finalized the establishment of an interim work RVU of 8.00 for CPT code 77778 and seeks comment on regarding the accuracy of the survey results.

CMS is correct, the raw survey data totaled 220 minutes, which included 65 minutes of pre evaluation, 15 minutes of pre-positioning, 20 minutes of scrub/dress/wait, 90 minutes of intra-time and 30 minutes of post time, for CPT Code 77778. When making recommendations, specialty societies are obligated to use pre-time packages established by the RUC. It is common for all specialties to lose significant pre-time because the packages do not reflect actual physician practice. In this case, time was lost in all three categories of pre time – evaluation, positioning and scrub/dress/wait, not because the survey respondents recommended low times, but because the standard packages have lower established times.

The bundling of CPT code 77790 into 77778 exacerbated the problem. ASTRO recommended 35 minutes of additional pre-service evaluation time (in addition to the package time) to account for the work associated with 77790. The survey respondents made pre-time evaluation recommendations for this newly bundled service (LDR procedure, as well as the time associated with supervising the ordering, receiving and storing of the isotope for prostate LDR). ASTRO clearly articulated the physician work associated with LDR prostate as it related to the isotope work and the actual procedure.

When CPT Code 77790 was then presented (by another specialty, for non-sealed source cases), the RUC questioned the work associated with the supervision, handling, loading of the radiation source. Although the specialty believes 35 minutes accurately reflects the physician time associated with supervising the ordering, receiving and storing of the isotope for prostate LDR, ASTRO agreed to remove the time from the recommendation at the request of the RUC. However, LDR Prostate Brachytherapy cannot take place until the work of supervision, handling, loading of radiation seeds into needles has happened, and now this work will occur in the pre-service period of the new bundled CPT code 77778. Therefore, even though the time has

been adjusted at the request of the RUC, the work RVU should be maintained at 8.78 RVUs as the RUC recommended.

It is important to note that the RUC recommended 145 minutes (25 pre, 90 intra and 30 post), a work value of 8.78 and in IWPUT of 0.085. The difference in time from the 220 raw survey time is all related to the pre-time issue described above. Intra and post times remained the same. The current IWPUT is 0.094 and we would argue that the intensity of this procedure has not decreased since the code was last valued.

ASTRO urges CMS to assign 8.78 work RVUs to CPT Code 77778 in 2017, when the permanent values are established.

Superficial Radiation Treatment Delivery – CPT Code 77401

In the proposed MPFS, CMS sought recommendations from stakeholders regarding whether it would be appropriate to add physician work for superficial radiation treatment delivery and to remove minutes for the radiation therapists, even though physician work is not included in other external beam radiation treatment services.

Stakeholder comments revealed significant differences of opinion regarding the physician work associated with 77401. As such, CMS is considering the possibility of creating a code to describe the total work associated with the course of treatment for this service and seeks input on alternative descriptions and valuations for a code describing this work.

CMS agreed with ASTRO's recommendation that it rename ER045 "Superficial Radiation Therapy System", rather than the proposed "SRT-100 Superficial Radiation Therapy System". The agency also finalized its decision to increase the price of ER045 from \$140,000 to \$216,000. **ASTRO appreciates CMS' decision to increase the reimbursement rate for the ER045 - "Superficial Radiation Therapy System," as well as the agency's decision to rename the equipment. ASTRO believes the CPT/RUC process is the most appropriate venue to discuss the possibility of adding physician work to CPT Code 77401.**

Radiation Therapy Centers

CMS acknowledged ASTRO's recommendation that the agency remove reference to Radiation Therapy Centers from the impact table as it confuses and misleads the radiation oncology community and the public about the actual impact of the proposed policies. CMS agreed that the information could be misleading but believes that is important to maintain consistent displays of specialty level impacts from year to year. While CMS did not agree to make any changes in this year's final rule, the agency does seek input on how the impacts should be displayed in future rule making.

ASTRO appreciates CMS' acknowledgement of this issue and understands the agency's decision to retain information regarding radiation therapy centers in the display of

specialty level impacts in the final rule. We request the agency provide a detailed definition of radiation therapy centers and an explanation of what claims are categorized in -74 Radiation Therapy Center. In future years, rather than include the reference to radiation therapy centers in the impact table, CMS should consider including this information in the section devoted to other specialties that are excluded from the rate setting calculation.

Thank you for the opportunity to comment on this final rule. We look forward to continued dialog with CMS officials. Should you have any questions on the items addressed in this comment letter, please contact Anne Hubbard, Director of Health Policy, at 703-839-7394 or anne.hubbard@astro.org.

Respectfully,

A handwritten signature in cursive script that reads "Laura Thevenot".

Laura I. Thevenot
Chief Executive Officer