

ALERT

NEWS AND UPDATES FROM LBA HEALTHCARE

September 2007

HEALTHCARE INDUSTRY UPDATES

- Medical equipment and supply manufacturers increased prices about 1% in June 2007 compared to previous years.¹
- **Wait Time Increasing for Routine Care** – Despite Americans spending more per capita on health care than any other country, waiting times in the US are as bad, or worse, than other industrialized countries. According to a study by the Commonwealth Fund, waiting time is a problem in the US, especially for routine care. Reasons for longer waits include the aging population which increases the number of patients and a new generation of doctors who are not interested in long hours. Low insurance reimbursement rates and heavy paperwork are also listed as reasons for increasing waiting lines.²

MEDICARE PAYMENT REVISIONS...COMING DOWN THE PIPELINE

A. Medicare Physician Payment Provisions

- The legislation eliminates the scheduled negative 9.9 percent update for 2008 and the anticipated 5 percent negative update for 2009. It provides updates of positive 0.5 percent for each of those years. In 2008, it removes the costs of physician administered drugs from physician expenditure targets and classifies new coverage decisions as a change in law and regulation for accounting purposes. It replaces the sustainable growth rate (SGR) with six separate categories defined by types of service with their own target growth rates and extends both the physician scarcity area and work geographic practice cost indices floor provisions for two years. It eliminates funding for the 2008 Physician Quality Reporting Initiative program and dedicates those funds to the physicians payment account. In 2009, all physicians in areas with the lowest per capita Medicare spending will receive a 5 percent bonus. It also create an expert panel outside the AMA's RUC process to independently review misvalued services.³

¹ First Research Email Alert, www.firstresearch.com, August 2007. First Research ©2007

² Ibid.

³ Medical Group Management Association (MGMA), <http://www.mgma.com/print.aspx?id=13960>, August 2007.



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B. Imaging Provisions

- It mandates that diagnostic imaging services must be performed in accredited facilities by January 2, 2010.
- In computing PR RVUs, CMS will assume a 75% (rather than 50%) utilization rate.
- The TC reduction for imaging procedures performed in a single session on contiguous body parts will go from 25% to 50%.
- The assumed interest rate for capital purchases will reflect the prevailing rate in the market, but in no case higher than 11%.
- Global billing will be eliminated.⁴

C. Stark Changes

- In addition to the imaging provisions, the CHAMP Act will also phase out the federal self-referral prohibition (“Stark”) exception that allows physicians to refer patients to hospitals in which they have an investment interest. Hospitals with provider agreements in effect as of July 24, 2007 would be allowed to continue operating under a “grandfather” clause, and those grandfathered hospitals will need to meet a number of requirements within 18 months of enactment of the Act. These requirements include limiting total physician ownership to 40 percent, with no one physician owning more than a 2 percent interest, and a number of other requirements that mirror the antikickback safe harbor exception and the new Medicare inpatient prospective payment rules relating to disclosure of emergency service capabilities.⁵

HIPAA UPDATE

- A. *In the courts* – Recent HIPAA privacy and security developments underscore the need for ongoing compliance. The Office of Civil Rights has gained subpoena power and launched a HIPAA privacy enforcement website. In the courts, the first HIPAA criminal conviction and the first appellate ruling on individuals’ rights to sue for HIPAA privacy violations have come out. New guidance on remote data devices reveals the evolving nature of HIPAA security. Other ongoing HIPAA duties concern national provider identifiers, privacy notices, and security assessments.⁶

⁴ Ibid.

⁵ Ibid.

⁶ “GRIST Report: HIPAA Administrative Simplification Potpourri,” *Washington Resource Group of Mercer Human Resource Consulting*, August 2007.

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- B. *Enforcement activities* – Over 28,000 HIPAA privacy complaints had been filed with OCR by the end of June 2007. Approximately three quarters (over 22,396) were investigated and resolved – many (over 4,828) resulted in enforcement; some (2,362) found no violations; but most involved cases not eligible for enforcement (15,206). OCR has made more than 400 referrals to the US Department of Justice (DOJ) for criminal investigations involving deliberate disclosure or obtaining of protected health information (PHI). In addition, over 160 cases were referred to Centers for Medicare and Medicaid Services (CMS) for potential violations of the HIPAA security rule.⁷
- C. *Common complaints* – The site notes that impermissible uses and disclosures of PHI are OCR’s most frequently investigated compliance issue. Other common complaints, in order of frequency, include: lack of PHI safeguards, denial of patients’ access to their PHI, use or disclosure of more than the minimum necessary PHI, and failure to obtain valid authorization for PHI use or disclosure. Health plans – including group health plans – rank fourth in the types of covered entities that OCR required to take corrective action, behind private medical practices, general hospitals, and outpatient facilities.⁸
- D. *Ongoing HIPAA security obligations* – HIPAA requires covered entities to conduct periodic assessments of how well their security policies and procedures meet HIPAA requirements. Although the law doesn’t provide specific timing for reassessment, internal changes (such as to systems, procedures, or health plans or through acquisitions) as well as external changes (such as security technology advancements) could increase the need to reassess the security of e-PHI. Steps covered entities should consider taking in the periodic assessments include:
- i. Evaluate changes made to systems containing e-PHI.
 - ii. Examine practices for portable data.
 - iii. Screen and update documentation.⁹

2007 PHYSICIAN QUALITY REPORTING INITIATIVE (PQRI)

The Tax Relief and Health Care Act of 2006 created a bonus program for physician practices that choose to report quality performance measures listed on the Centers for Medicare & Medicaid Services (CMS) Web site. The reporting period runs July 1 – December 31, 2007. Practices will have to report at least three measures at least 80 percent of the time that those measures were clinically applicable to the visit. Reporting will consist of adding the appropriate G-code or CPT II code (when available) to a Medicare service claim that also contains the relevant ICD-9 code.

The bonus a practice receives is the lesser of either:

- 1.5 percent of its entire Medicare allowable charges for that six-month period; or
- A cap formula that CMS will calculate in 2008.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

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The cap formula will take into account the average allowable charge on all claims that have performance standards reported on them. CMS will calculate this figure in 2008, after the program has ended. Bonuses will be paid out as lump sums to appropriate practices in 2008.

CMS is working to update the PQRI Web page to include accurate information about the program.¹⁰

HMO SETTLEMENTS OVERVIEW

The Multi-District Litigation (MDL) settlements, also known as In re: Managed Care Litigation, is a series of cases combined into a class-action lawsuit filed by physicians and medical societies in Miami, Florida, against the leading private insurance companies: Aetna, CIGNA, Health Net, Prudential Insurance Co., Anthem/Wellpoint and Humana. Payers named in the MDL settlements have agreed to make retrospective and prospective payments for claims filed for previous denials based on unfair business practices. Additionally, the named payers agreed to improve communication, reduce administrative complexity and facilitate care to patients.

The Blue Cross Blue Shield (BCBS) lawsuit, also known as Love et al. v. Blue Cross Blue Shield Association, names more than 90 percent of BCBS plans and has been preliminarily approved by Judge Moreno of the Southern District of Florida, Miami division. However, Judge Moreno has not yet designated a compliance dispute facilitator to process recovery of settlement funds. The UnitedHealth Group suit was dropped due to weak evidence.

An estimated \$400 million of recovery money in cash funds and settlement payments went to physicians and medical groups. Although dates to file reimbursement claims for recovery money have now passed, the fairer business protections resulting from the MDL are *all* effective. These protections cover reimbursement issues that include bundling, downcoding, refusal to recognize modifiers, delays in payment and failure to pay according to practice contracts. Protections also give a definition of medical necessity. Moreover, the settlement prohibits certain contract clauses, such as all-products clauses, gag clauses and most-favored-nation clauses.¹¹

¹⁰ Medical Group Management Association (MGMA), <http://www.mgma.com/print.aspx?id=13960>, August 2007.

¹¹ Ibid.

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MANAGED CARE UPDATES

MEDICARE NEWS & UPDATES:

- **Updated EDI Transaction Enrollment Forms Coming Soon** – The forms used to enroll for exchange of EDI transactions are being updated to include a field for submission of the provider’s National Provider Identified (NPI). The updated forms will be available for use at www.fcso.com starting October 1, 2007.¹²

- For **Medicare Claim Appeals**, a new form has been introduced, or rather redefined. A combination of misuse and misunderstanding has resulted in CMS clarifying what form to use and when:
 - For 1st level appeals, CMS is requiring that the CMS-20027 Form still be used. [CMS-20027 Link](#)
 - For 2nd level appeals ONLY, please refer to the new Reconsideration Request Form, courtesy of Q2 Administrators, LLC. [Reconsideration Request Form Link](#)

- **NPI Processing Issues** – CMS, due in part to the elevated volume of applications to be processed, is experiencing processing delays due to NPI issues. First Coast Service Options states the following two reasons in their latest update as reasons for delays:
 - Submitting the group NPI/PIN as the rendering provider
 - Submitting an NPI with an invalid PIN (i.e., UPIN, NPI submitted as Medicare PIN, or invalid words such as "Pending")¹³
 - *For further details and suggestions, please visit:*
http://www.floridamedicare.com/Part_B/Articles/109673.asp
 - **CMS WILL NOT PROCESS AN APPLICATION IF THE NAME ON THE NPPES NPI VERIFICATION EMAIL HAS ANY PUNCTUATION. If your verification email does have punctuation, log-in on the NPPES site and update your profile to correct this.** (i.e. Medical Center, PA – WRONG; Medical Center PA – CORRECT)

- FCSO recently hosted a ***Fee For Service Medicare NPI Q&A Session: Common Billing Errors*** on August 2nd. If you were unable to participate, or desire a refresher of the topics covered and information provided, please visit the [MLN Matters](#) article released to coincide with the event.

¹² <http://www.floridamedicare.com/EDI/Articles/111915.asp> , First Coast Service Options (FCSO), September 4, 2007.

¹³ First Coast Service Options (FCSO), Medicare Part B, Articles, “Processing Delays Due to NPI Issues,” 2007.

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- **CMS-1500 Form** – The form has been updated and only the 2007 release of the form is now acceptable for submission. The form is updated annually. The National Uniform Claim Committee (NUC) released the following statement in reference to the new form:

The National Uniform Claim Committee (NUCC) has released its annual, updated version of its 1500 Reference Instruction Manual. The updated manual, Version 3.0 7/07, goes into effect immediately. The instruction manual is available at the NUCC's website, www.nucc.org, under the 1500 Claim Form tab. A complete list of the changes is also available on the website.

Any interim changes, clarifications, or corrections to the instructions following this release will be posted on the NUCC website. The next release of the manual is anticipated for July 2008, unless there is an urgent need to provide an interim release.

The 1500 instruction manual is maintained by the NUCC. The NUCC is a voluntary organization whose members include representatives from major provider, payer, health researchers, and other organizations representing billing professionals, and electronic standard developers. Additional information about the NUCC is available on its website.

For more information on the 1500 Health Insurance Claim Form Reference Instruction Manual, visit the NUCC website or contact Nancy Spector, NUCC Chair.

¹⁴

A list of specific changes to the form, by section, is available at www.nucc.org under the **1500 Claim Form** tab.¹⁵

¹⁴ National Uniform Claim Committee (NUCC), "NUCC Releases Annual Updated Version of the 1500 Claim Form Reference Instruction Manual," © Copyright 2007 American Medical Association

¹⁵ http://www.nucc.org/index.php?option=com_content&task=view&id=72&Itemid=46, © Copyright 2007 American Medical Association

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- First Coast Service Options (FCSO) has recently revamped its website and with it, some of its contents. In a recent update, FCSO listed the following sites as ones applicable to recent changes:

[Irinotecan \(Camptosar\)](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Viscosupplementation Therapy for Knee](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Cetuximab \(Erbix\)](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Doxorubicin HCl](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Omalizumab \(Xolair\)](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[E&M Home and Domiciliary Visits](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Computerized Corneal Topography](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Osteopathic Manipulative Treatment](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Lacrimal Punctal Plugs](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Surgical Decompression of Peripheral Polyneuropathy](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

[Interspinous Process Decompression](#)

Last Modified: 8/1/2007

Summary of Comments (comment period 5/21/07-7/04/07)

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UPCOMING EVENTS

Medical Office Technology Solutions Event

Location: **University Club**
1301 Riverplace Blvd # 2516
Jacksonville, FL 32207
(904) 399-3011

Date: **October 2, 2007**
Time: **6:00PM – 9:00PM**

Hosted by: 

Please RSVP by September 26, 2007 to:

Lisa B. Harper, CEO
904-519-9933
lharpertouchpoint-inc.com

Technologies:

- Tablets & Notebooks
- EMR Solutions
- Wireless Technology

TouchPoint is a regional company with three offices strategically located in Jacksonville, Orlando, and Tampa. We offer a broad range of Network Integration Solutions ranging from Network Storage, Security, and LAN/WAN Infrastructure. TouchPoint partners with companies that we believe have the best in market solutions and products such as HP, IBM, Cisco, Microsoft, Citrix, VMware, Juniper, and Fenestrae.

Let us assist you in the design, upgrade, deployment, and management of a comprehensive integrated healthcare solution that fits your practice. Whether your needs are record management, remote access thru Citrix, network security solutions, or a single file server TouchPoint can help. We believe in building relationships and strategic partnerships which allow TouchPoint to bridge the gap between your technology demands and your fiscal restraints.

Let TouchPoint be the Point of contact that puts you in Touch with your technology solution.¹⁶

¹⁶ LBA is not affiliated with TouchPoint and has no responsibility or accountability for their events or products.

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New LBA Team Member



Please join us as we welcome our newest team member, Niieman Arnold. Niieman joined us this September and is looking forward to aiding LBA in our continuous effort to provide the best client service in the industry.

YOUR LBA TEAM

If you have questions related to the information contained within this Alert, please contact any of your LBA Healthcare Consultants.



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