

August 30, 2011

Donald Berwick, M.D.  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attn: CMS-1524-P  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Re: CMS-1524-P; Medicare Program; Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2012

Dear Dr. Berwick:

I am writing on behalf of the American Psychological Association (APA), the professional organization representing more than 150,000 members and associates engaged in the practice, research and teaching of psychology. Psychologists provide Medicare beneficiaries with critical mental and behavioral health services including psychotherapy, testing, and health and behavior assessments and interventions. APA wishes to take this opportunity to offer comments on some of the changes discussed in the proposed rule on the 2012 Medicare physician fee schedule.

### **The Medicare Economic Index**

Last year CMS rebased and revised the Medicare Economic Index (MEI) by linking it to more recent practice data and making changes to the expense categories. These changes led to an increase in practice expense values for many services, which under budget neutrality then required that a corresponding amount be offset. We objected to the agency's decision to maintain budget neutrality by reducing payments for the work value component because it penalized mental health professionals whose cost-effective services require minimal overhead. Psychologists and social workers suffered the most, with each specialty having its payments reduced by 5% on average. Psychiatrists were close behind, facing a 3% cut due to the MEI changes.

Last fall, 22 representatives in Congress signed a letter asking CMS to prevent an access crisis in Medicare mental health services by taking into consideration the disproportionate impact the MEI changes would have on mental health and more fairly apportioning the burden. While the letter did not result in any adjustments to the MEI changes CMS did state in the 2011 final rule that a Technical Advisory Panel (MEI TAP) would be convened to review the MEI going forward. As we see no reference to the MEI TAP in this proposed rule we again ask CMS to consider alternative approaches to achieving budget neutrality that will more fairly apportion the burden among all specialties. We also expect to hear that once the MEI TAP is convened that it will

explore the issue of disparate impact on mental health professionals and other cognitive service providers.

### **Physician Time for Select Services**

CMS is proposing to adjust the physician time for a series of group service codes, including the codes for three psychotherapy services (90849, 90853, and 90857) and the health and behavior group intervention (96153). Because the group services are billed per patient, CMS believes the time for these codes should be divided by the typical number of patients per session. CMS is proposing adjusted physician times for these services with the assumption that a typical group session consists of 6 patients.

We object to this proposal, which we believe reflects a lack of understanding about group services. The group therapist needs to manage the concerns of multiple individuals, ensure that each is engaged in the group throughout the entire session, support and encourage helpful participation and challenge inappropriate behavior. The therapist must also simultaneously track the needs and concerns of all group members, work to balance the time allotted to competing presenting concerns and try to ensure that each person received some benefit from each session.

According to Burlingame, G. M., Fuhriman, A., & Johnson, J. E.<sup>1</sup>:

*In group psychotherapy, the context is a system of many individuals and relationships, rather than the single relationship between two individuals found in individual therapy. As such, the group therapeutic relationship requires a systemic definition, one that captures a multiplicity of relationships and assorted contributing factors that all come together to form a dynamic and complex influence.*

In conclusion, providing group therapy involves much more than simply allotting a specific amount of time to each member of the group as the CMS proposal suggests. We urge CMS to recognize the unique attributes of a group therapy session and refrain from adjusting the current physician time for the codes for group psychotherapy services and the group health and behavior intervention service.

### **Select List of Procedural Codes Referred for AMA RUC Review**

In the proposed rule CMS identifies a number of codes that have not been reviewed in the last 6 to 10 years and hence are considered potentially misvalued. CMS is requesting that the AMA RUC review at least half of these codes by July 2012. Among the codes identified by CMS are several of the codes for psychotherapy services (90801, 90805, 90806, 90808, and 90818).

We wish to point out that the psychotherapy family of codes is currently under review by CPT and will proceed to the RUC for review once CPT has approved any changes. The existing CPT-RUC process should be allowed to continue and RUC should not be asked to impose any new timelines to the review of the psychotherapy family of codes.

---

<sup>1</sup> Cohesion in group psychotherapy. In Norcross, J. C (Ed.), Psychotherapy relationships that work: Therapist contributions and responsiveness to patients (pp. 71-87). New York, NY: Oxford University Press (2002).

## **Incorporation of a Health Risk Assessment as Part of the Annual Wellness Visit**

As currently designed, the annual wellness visit (AWV) relies heavily on primary care providers such as physicians and advance practice nurses to recognize and address the beneficiary's potential for numerous mental health problems, including but not limited to depression, psychosocial risks (e.g., anger, loneliness) and behavioral risks (e.g., safety, alcohol and tobacco use). CMS is proposing that a "health risk assessment" be completed by the beneficiary during the AWV to assist the primary care provider in furnishing personalized prevention services.

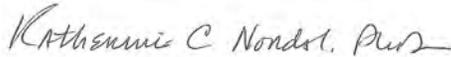
We commend CMS for the actions taken to expand coverage of preventive care but wish to draw attention to the importance of having mental health professionals such as psychologists involved in primary care. At this time most primary care settings have not yet integrated mental health professionals into their practice. Psychologists are trained to diagnose mental and behavioral health problems and determine appropriate treatment. Therefore it is crucial that primary care providers understand the need for, and are prepared to make, referrals to psychologists and other mental health professionals when mental health and behavioral problems are found or suspected.

We recommend that CMS include language indicating that upon identification or suspicion of mental illness, psychosocial risks or behavioral risks, primary care providers should refer beneficiaries to mental health professionals when necessary.

### **Conclusion**

We thank you for the opportunity to provide comments on the proposed rule on the physician fee schedule for 2012. If we can be of any further assistance on these issues please contact Diane M. Pedulla, Director of Regulatory Affairs, by telephone at 202-336-5889 or by email at [dpedulla@apa.org](mailto:dpedulla@apa.org).

Sincerely,



Katherine C. Nordal, PhD  
Executive Director for Professional Practice