

***Government Affairs Committee (GAC) E-newsletter***

***Issue #14 –June 2013***

One of the strategic goals for our committee is to improve communication to the broader ASCLS membership and to provide a more consistent face to our members. The GAC e-newsletters are also available on the ***ASCLS Advocates for You*** section of the ASCLS website.

***In this issue…***

* Fixing the Sustainable Growth Rate (SGR)
* Laboratory Impact of President Obama’s proposed fiscal 2014 budget
* OIG Report on CMS Laboratory Payment
* Workforce Reinvestment Act status
* Molecular test code reimbursement

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**Fixing the Sustainable Growth Rate (SGR) – Is 2013 finally the year?**

With House Energy and Commerce and Ways and Means committees discussing physician payment reforms, there appears to be momentum in Congress this year to repeal the Medicare's sustainable growth-rate formula (SGR), the troublesome formula the CMS uses to determine physician payments under Medicare for participating doctors.

In April the House committees added details to a plan that MedPAC, a committee that advises Congress on Medicare policy, had included in their latest report and sought feedback from the physician community. The Energy and Commerce Committee has now drafted legislation and is holding hearings on this topic. Although the two congressional committees are working together for a solution, Energy and Commerce is the committee of jurisdiction and is finally working toward a permanent fix for the SGR.

The committee’s bill would establish three phases to transition from the SGR:

* a period of payment stability and development of an improved fee-for-service program
* applying quality measurement to payments
* an “opt-out” provision to allow providers to move to an alternative payment model, such as an accountable care organization or a patient-centered medical home.

The period of stability would call for some small increase in payments during the first few years, with a possible differential for primary care physicians. What has not yet been defined is how the fix would be paid for and that is a concern for the clinical laboratory because recent history tells us that Congress keeps cutting us to pay for such fixes. The Congressional Budget Office now estimates a fix will cost about $139 billion over the next decade. The goal is to try to repeal the current SGR methodology before the August congressional break.

SGR [www.modernhealthcare.com/article/20130621/NEWS/](http://www.modernhealthcare.com/article/20130621/NEWS/)

SGR [www.modernhealthcare.com/article/20130604/NEWS/](http://www.modernhealthcare.com/article/20130604/NEWS/)

ASCLS will be watching potential legislative action and paying particular attention to how the fix might impact laboratory reimbursement levels.

**Laboratory Impact of President Obama’s proposed fiscal 2014 budget**

The Clinical Laboratory Coalition (CLC), of which ASCLS is a member, is urging Senators’ Max Baucus (D-MT) and Orrin Hatch (R-UT) on the Finance Committee to reject a proposed 14 percent cut in the Medical clinical laboratory fee schedule (CLFS) over 10 years. This proposal is contained in President Obama’s proposed budget request to Congress for fiscal year 2014 that begins on October 1, 2013. The proposed reduction in the CLFS reimbursement will total approximately $9.46 billion over this 10 year timeframe.

Essentially, what the administration is calling for is an extension of the 1.75% cut in clinical laboratory fee schedule reimbursement that was implemented to help pay for healthcare reform (The Accountable Care Act). This decrease was to be limited to 5 years. President Obama’s proposed budget would extend the 1.75% cut for an additional 10 years.

Please be aware that this is a “proposed” budget; both chambers of Congress would need to approve the budget as presented and that never happens. At this time we consider the President’s proposal to be another indicator of the potential for more cuts to clinical laboratory reimbursement.

**OIG Report on Laboratory Payment:**

The Department of Health and Human Services’ Office of Inspector General (OIG) released a report “*Comparing Lab Test Payment Rates: Medicare Could Achieve Substantial Savings”* in June 2013. In the report, there is a recommendation that the Centers for Medicare & Medicaid Services (CMS) seek legislation that would allow it to establish lower payment rates for laboratory tests and consider seeking legislation to institute competitive bidding, co-payments and/or deductibles for laboratory tests. The analysis of 20 high volume laboratory tests showed an opportunity to lower reimbursement by $910 million per year (a 38% reduction). ASCLS and other organizations that have examined the report have expressed concern about the lopsided nature of the analysis. The 20 high volume tests that were examined are primarily routine laboratory tests that all third party payors typically pay little for. The analysis did not include those esoteric and/or new tests for which reimbursement barely or does not cover costs. We believe if those tests had been included the resulting savings would have been much lower. In response to the study, CMS stated that it is exploring whether it has authority under current statute to revise payments for lab tests consistent with OIG’s recommendation and that a proposal to establish “deductibles and coinsurance” for laboratory tests is not included in the fiscal year 2014 President’s Budget.

The Clinical Laboratory Coalition will be discussing this issue and ASCLS’s Legislative consultant, Patrick Cooney will be checking to see if this report is being discussed on Capitol Hill. The link to the entire OIG report is at <http://oig.hhs.gov/oei/reports/oei-07-11-00010.pdf>

**Reauthorization of the Workforce Reinvestment Act (H.R. 803)**

The purposes of this Act (originally passed in 1998) included the following:

(1) Increase economic growth by improving education/skills of American workers.

(2) To ensure middle class prosperity through strong investment in talent and workforce development.

(3) To prepare the unemployed, the underemployed, and those most disadvantaged with skills to match up with employer needs.

(4) To provide individuals streamlined access to in-demand skills training and employment services by aligning education, training and workforce programs.

(5) To strengthen engagement with employers in in-demand industries and all sectors to meet the needs of employers.

(6) To improve the competitiveness and dynamism of the Nation's future workforce by investing in college and career-ready pathways for young adults.

(7) To ensure accountability and efficiency through system performance measures that incentivize continuous improvement in services for workers and employers.

(8) To encourage private sector partnerships connecting employers, labor unions, community colleges, workforce boards and related stakeholders to develop workforce skills that meet employer needs.

The House of Representatives voted to reauthorize the Workforce Reinvestment Act by passing the SKILLS (Supporting Knowledge and Investing in Lifelong Skills) Act (H.R. 803), which moved through the House Committee on Education and the Workforce. The SKILLS Act has been forwarded to the U.S. Senate and is being considered by the Senate Committee on Health, Education, Labor and Pensions (HELP). During the Legislative Symposium we thanked our House members for reauthorizing the legislation and asked our Senators to support the legislation when it comes up for action. (A second bill was also introduced in the House, H.R. 798, to reauthorize the Workforce Investment Act, but has not yet been considered by the House Committee on Education and the Workforce).

**Molecular test code reimbursement**

On May 9, 2013 the Centers for Medicare and Medicaid Services (CMS) published interim pricing for 114 new molecular pathology (MoPath) CPT codes developed by its Medicare Administrative Contractors (MACs). The reimbursement proposed was determined by the gap-fill methodology. Laboratories that perform these tests have been waiting for this information because CMS Carriers had not been paying for molecular testing since January 1, 2013. For most carriers, payment has now been restored, but at these new, lower rates.

CMS’s publication of all the MoPath prices officially launched a 60-day comment period. To close out the 2013 gap-fill process for the MoPath codes, CMS will share comments after the 60-day comment period closes, and will publish the final gap-fill pricing decisions in September 2013. These rates will form the basis for Medicare payments in 2014, during which each MoPath code will be paid at the median of the final MAC gap-fill rates determined in 2013. Another 30-day reconsideration period will follow the posting of the final rates in September.

ASCLS will be developing a formal response to these reimbursement rates.

CMS website for the reimbursement rates for the molecular path codes: <http://www.cms.gov/Medicare/Medicare-Fee-For-Service-Payment/ClinicalLabFeeSched/Gapfill-Pricing-Inquiries.html>

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