

## HCFA's General Approach to Coverage and Payment of Services that use Alternate Technologies or Methods

### **General:**

Whenever feasible, the Health Care Financing Administration (HCFA) seeks to integrate new methods or technologies for providing covered services into existing Medicare coverage and payment policies. Not only is this more efficient in terms of administration of claims, but it allows the Medicare program to assimilate medical advances while allowing older methods to continue to be covered until they are abandoned by the medical community.

While this approach is generally favorable to both providers and the Medicare program in terms of coverage of services, there are situations in which it disadvantages one or the other with respect to payments, at least in the short run. For example, when laparoscopic cholecystectomy was introduced, it received coverage under the Medicare program. However, the lesser hospital stay associated with the new procedure, compared to the covered open procedure resulted in Medicare overpayments to hospitals. Eventually new payment levels reflecting the lesser hospital stays associated with the laparoscopic procedure were developed.

On the other hand, the development of a more effective procedure which requires fewer physician visits or treatments may be underpaid if current payment is made on the basis of the usual number of visits or treatments associated with the currently-covered method.

### **Reasons**

These situations result from the simple fact that most services continue to be covered without question and without a lapse in coverage in cases where newer techniques or methods replace older ones. The older services had fallen into a Medicare benefit category, were medically necessary, and had codes and payment instructions appropriate for them. Claims for the newer service, especially if coded in the same manner as the older service, fail to give HCFA or its contractors any indication that there might be something different about the newer service that might warrant a payment adjustment. Eventually, in cases where over- or underpayments occur, one side or the other requests a payment review and adjustment to resolve the situation.

### **Criticisms Raised with Regard to this Situation**

Providers, physicians and researchers and manufacturers of medical devices and equipment have cited these problems as being an impediment to development of new and improved services and equipment. They state that they cannot develop realistic business plans, or even research plans, without a better

idea of how HCFA or its contractors will react to their innovations. HCFA, while sympathetic to these criticisms, has yet to develop processes that will offer the level of assurance requested.

Some choose to ignore the coverage and payment processes until they cannot be avoided, while others request extremely detailed rules and procedures at the outset to help minimize the potential for misunderstanding and confusion.

### **Handling of the Problem**

Regardless of any future development of coverage and payment processes that may be more acceptable to all concerned, the current situation offers opportunities to greatly reduce the uncertainties and confusion inherent in HCFA's current processes.

First, neither HCFA nor its contractors can be aware of, or prepare for, all the potential innovations likely to appear in today's health care system. Generally, an innovation, unless thoroughly publicized, finds its way into medical practice, at least in some areas, prior to being brought to HCFA's attention. Thus, it is inevitable that some major changes will not be recognized as such until after they have been accepted into HCFA's existing claims system.

Second, there are the advantages in HCFA's not having to review each and every improvement, innovation or modification of a covered service in order to continue its coverage and payment. Since, in most cases, these changes do not affect the safety, efficacy or medical effectiveness of the service such reviews would generally be a waste of everyone's time and effort.

Third, both HCFA and its contractors are aware of these problems and the pitfalls they present. Both HCFA and its contractors recognize the advantage of early informal communications as a method of both reducing misunderstanding and the time necessary to reach reasonable coverage and payment decisions.

Consideration of these points leads to the conclusion that, in the case of innovations that are likely to encounter either coverage or payment difficulties, it is usually advantageous for their proponents to open dialogue with HCFA or its contractors at an early point. HCFA is receptive to this, and has encouraged innovative technologies to enter into informal, off-the-record discussions as early as possible. HCFA has offered to assist them in both developing their clinical research proposals, as well as offering advice on the specific types of studies that are likely to produce the information necessary to assure both coverage and payment policies are both properly and promptly developed.

This assistance does not, however, guarantee that coverage and payment will be forthcoming automatically. The results of the studies, advancements in other services or changes in medical practice, as well as information from other

sources may influence HCFA's review and decision in a manner different from that initially expected. There is no "sure cure" for this problem, despite some of the suggestions that have been offered. The best assurance that no unpleasant surprises will occur is frequent conversations and exchanges of information with HCFA or its contractors.

*Prepared by: Ron Milhorn, LLC*