Approval of the Minutes of the October 26, 2017 Committee meeting

Dr. Steven S. Schwalbe, presiding, called the meeting for March 1, 2018 to order. The first order of business was to approve the minutes from the last meeting held on October 26, 2017. The minutes were accepted and approved as written.

Medicare CAC Local Coverage Determinations (LCDs) for consideration –

As a point of information, Dr. Laurence Clark, Carrier Medical Director, advised that NGS Medicare retired a few their LCDs so as not to conflict with CMS’s National Coverage Determination (NCD) when they transitioned from ICD-9 to ICD-10 diagnosis coding.

When updating the National Coverage Determination (NCD) for Vitrectomy changing the ICD-9 diagnosis codes to the ICD-10 codes, a number of established diagnoses were deleted. Dr. Williams, an expert for the American Academy of Ophthalmology called many, if not all, the Medicare contractors to alert them of this problem.

The Medicare Administrative Contractors (MACs - such as NGS Medicare) are trying to hold processing of the claims and not deny claims incorrectly; but, there are reports that United, Healthnet and Humana Medicare Advantage Plans are already denying these Vitrectomy codes. Patients who have been scheduled for the procedure at their hospital or outpatient surgery facilities are being cancelled. It is a significant number of diagnoses.

Dr. Clark would appreciate and is urging communication between the Ophthalmology Society and Medicare to give people a heads up. Since this is an NCD and not an LCD, NGS Medicare is encouraging CMS to put out standard language on all the Medicare websites so that people will know how to code and process the claim and not have to go through an inappropriate denial.

In addition, NGS Medicare has asked the CMS Regional Office to contact the Medicare Advantage Plans and let them know that some of these issues are up in the air. Patients should not have these procedures cancelled and the claims should not be denied, particularly if there is a hemorrhage or a retinal detachment or something to that order which may be contributing to the need for the Vitrectomy. Medicare will adjust claims that are denied in error and brought to their attention. However, adjustments may have to be held until the April 1st update for ICD-10.

NGS Medicare is trying to impress upon CMS the urgency of responding to this and Dr. Clark wanted to be sure physicians are aware of this matter.

Genomic Sequence Analysis Panels in the Treatment of Hematolymphoid Diseases

Molecular Pathology Procedures
Dr. Steven Lee Allen, Hematology and Oncology, stated that the three LCDs for current consideration all related to Molecular Pathology issues. There are diagnoses missing from these NCDs that must be addressed. However, since they are NCDs and not LCDs, CMS has to be involved. Clinical issues were addressed by Dr. Clark and Dr. Allen. They will continue to address these policies in further detail.

Administrative Multianalyte Assays with Algorithmic Analyses (MAAA) and Proprietary Laboratory Analyses (PLA) Services

Dr. Clark stated that this last policy is a little bit controversial. For MAAA codes and the Proprietary Lab Analyses, the problem is that in this policy, the codes which are granted by the AMA essentially identify Granular Laboratory Products.

Procedure codes do not differentiate between CT scans done by GE or a CT scan done by Siemens. Administrative MSSS and PLA services are not considered medically reasonable and necessary by default at the time of issue. Requests for coverage of specific administrative MAA or PLA codes require compliance with the LCD reconsideration process.

NYS Legislative Update

Mr. Morris (Moe) Auster or our Governmental Affairs Division provided the members with the Albany updates. Moe asked the members to plan on being in Albany for MSSNY¿s Lobby Day.

It was anticipated to expect to have between 200-250 physicians and physician advocates in Albany on Wednesday, March 7th. However, as of this writing, Lobby Day was cancelled due to extreme inclement weather.

Mr. Auster advised that the State is dealing with many budget issues this time of year. The number of policy issues that get rolled into a state budget seem to have increased. This year there are more than memory serves in the state budget.

Positive parts:

- a proposal that would continue the Excess Medical Malpractice Insurance without any new conditions;
- a proposal that would tax e-cigarettes in the same manner as tobacco cigarettes; and
- a proposal by the Governor that would reduce the interest rate for Court Judgement.

Challenging parts:

- a proposal that would impact physician supervision of anesthesiology by non-physician practitioners - there would still be an opportunity for a hospital to set criteria when physician supervision, anesthesiology supervision would still be required, but that would be up to each hospital;
For Primary Care, there are several challenging issues:

- A component that would significantly cut the payments to the primary care physicians who participate in the Medicaid Patient Centered Medical Home Program - the current proposal would be cut form $7 per member per month to $2 per member per month for the months of May and June and after the that the cut would be restored by only if the physician had a Level 1 Value Based Payment contract with a Medicaid Managed Care insurer.

MSSNY has had ongoing discussions with the Health Department and has been invited to various meetings with the State Health Department along with the NYS Academy of Family Physicians, the New York Chapter of the American Academy of Pediatrics, and The NY Chapter of the American College of Physicians as well as the Community Health Care Association of New York State. We’ve actually been partnering together on some letters and coordinating our advocacy.

- Another component in the Governor’s budget would authorize Corporate Owned Retail Clinics, they do exist to some extent now in drug stores, but it’s a little different in the sense that no situations of either a Physician, or a Nurse Practitioner or a Physician’s Assistant renting space from that pharmacy. This proposal would actually allow a pharmacy or a grocery store, while they have some type of collaboration, with a hospital or physician practice to open up a clinic in their store.

MSSNY has expressed great concern with this component particularly in light of the proposal of CVS purchasing Aetna. Dr. Rothberg has sent out notices expressing great concerns with this merger. In fact there was a hearing before Congress recently examining the merger. The AMA issued comments expressing strong concerns with the proposed acquisition.

Other issues that MSSNY is engaged in on the state budget:

- a pilot program under NY Law within hospitals where physicians and pharmacists can collaborate on patient specific drug management protocols. There’s a proposal in the Governor’s budget that will allow this program to be extended outside of hospitals where physicians and pharmacists may not be on the same EMR, and also allow Nurse Practitioners to engage in this protocol. A similar proposal was advanced last year as part of the budget but was ultimately rejected. MSSNY is hopeful that this will get rejected again in this year’s budget.

- a proposal that would eliminate the provision that currently is in law within Medicaid and Medicaid Managed Care plans where the physician, not the State, gets final say over the patient’s medication.
MSSNY has been partnering with the NY State Psychiatric Association and other specialty societies as well as many of the patient groups in opposition to repeal the Prescriber Prevail provisions.

- Another proposal in the Governor’s budget would enable EMTs working in conjunction with physicians and hospitals to provide in-home care that is not emergency-based. It is called Community Paramedicine Proposal.

MSSNY expressed concerns and this proposal may not in the budget.

Moe asked the members to be sure to review the MSSNY Grassroots Action Center of our website. There are numerous letters available for sending to the legislature. In addition, MSSNY has been generating a great deal of social media material and urged the members to continue with their own support on any of these issues.

**Specialty Specific Issues:**

Dr. Schwalbe announced an issue from the New York State Society of Anesthesiologists. The Specialty has submitted a resolution for consideration by the MSSNY House of Delegates (HOD). Resolution 2018-101 is calling for Preserving the Anesthesia Care Team Model. This Resolution will be considered under the Reference Committee of Governmental Affairs B at our HOD from March 23-March 25. 2018

Dr. Schwalbe advised that the Specialty has the support of both the 3rd and 4th District Branches of MSSNY. He requested and obtained a vote of support from the Interspecialty Committee. The Speaker is amenable to announce the Interspecialty Committee’s support of Resolution formally on Friday at the opening of the HOD.

Dr. Schwalbe personally thanked the members of the Committee for their support on this issue.

**Other CAC Information – JK CAC Meeting PPT**

Ms. Katherine (Kathy) Dunphy of National Government Services (NGS) - Medicare provided the members with a Power Point Presentation (PPT) referenced as the hyperlink shown above.

Kathy began her discussion from Slide 37. Kathy explained that CMS plans on reducing physician burden in 2018. There might be some reductions in regulations and some less onerous MACRA and MIPS and quality payment program activity.

- A good news point is that the rate for improper fee-for-service payment has dropped from 11% in 2016 to 9.5% in 2017. That is a decrease of $4.9 billion in improper payments from the Medicare Program.
• Targeted Probe and Educate (TPE) processes were discussed at the last meeting. Now, the hassle for physicians has been reduced. TPE is nationwide and is streamlined. It is focused mostly on the outliers. Not everyone is asked for auditing materials.
• Members were reminded to be aware of the QPP and MIPS filings deadline of March 31, 2018.
• The Physical Therapy and Speech Language combined cap is $2010. The Occupational Therapy cap is $2010.
• Dual eligible persons, Medicare and Medicaid, beneficiaries cannot be balanced billed for deductible and/or coinsurance.
• The Medicare Diabetes Prevention Program (MDPP) expanded model is a structured intervention with the goal of preventing type 2 diabetes in individuals with an indication of prediabetes.
• The National DPP is based on the results of the Diabetes Prevention Program (DPP) study funded by the National Institutes of Health (NIH).
• MDPP suppliers must use a CDC-approved curriculum to guide sessions.
• Enrollment for new Medicare providers to participate in the program started on January 1, 2018
• New MDPP providers can begin billing Medicare on April, 1, 2018
• The new Medicare cards will start being sent in April 2018 (NY/NJ will start in July).
• No handwritten claim forms will be accepted; physicians can file claims through the Medicare Connex portal.
• The second cycle for PECOS revalidation has started. It is now the second 5-year period for revalidation

Hospital-Based practices need to be especially aware of the revalidation cycle so as not to disrupt billing and claims payment.

There being no additional business for today’s meeting, the call was concluded at 11:00 am. Dr. Schwalbe thanked the attendees for their participation and the call ended.

Respectfully submitted,

Steven S. Schwalbe, MD, Chairman