

MSSNY COMMITTEE ON INTERSPECIALTY

February 28, 2019

Approval of the Minutes of the November 8, 2018 Committee meeting

Dr. Steven S. Schwalbe, presiding, called the meeting for February 28, 2019 to order. The first order of business was to approve the minutes from the last meeting held on November 8, 2018. The minutes were accepted and approved as written.

Update on the Medicare Carrier Advisory Committee (CAC) Process

Dr. Laurence Clark of NGS Medicare advised the members that Mr. Matthew Katz, the EVP of the Connecticut State Medical Society has been a spearhead in terms of complaints, including the congressional level regarding the changes to the Medicare CAC Process. NGS Medicare is also hearing some similar things further up in New England. So, there is a lot of concern about how Medicare will communicate with practicing physicians.

Historically, the Medicare CAC was a place to discuss pending draft LCDs, Medicare coding, billing, appeals, provider enrollment, revalidation, CERT, TP&E and general Medicare updates, etc. There was open discussion and very valuable comments among multispecialties about the treatment of a patient in terms of an LCD under discussion.

Now, in the name of transparency, the Medicare CAC will be more open to the public and will only discuss the pending draft LCD(s), specifically. Moving forward, there is concern about the how to involve interspecialty discussion. Many times the opinions that are needed are not from directly invested clinicians but other clinicians who may say that they are not sure how this fills the need or is medically necessary for the patient. It is very hard to expect how someone who is in active practice of Hematology/Oncology or Orthopedics to spend time to attend a meeting that will only address Corneal Hysteresis. For example, the Medicare CAC meeting of February 25, 2019 was only 12 minutes long and there were no comments on the draft LCD - DL38014. Comments for this draft LCD are acceptable until April 13, 2019 and can be sent to Dr. Clark.

There is also added concern that has been discussed by the Interspecialty Committee Members and others that the "Open to the Public" process diminishes the willingness of the clinicians to go on the record expressing concerns about particular technology. The next Medicare CAC will be held on March 20, 2019 and will be devoted to the subject of Vertebral Augmentation. It should be of interest to Anesthesiology, Interventional Radiology, Neurosurgery and Orthopedic Surgery. Again, Medicare is mandated to do this as essentially a specialty CAC directed towards this one policy per the manual instructions.

The Medicare CAC began in 1992 and for 20 years discussions were open and informative for all parties involved. However, this new format might not be particularly germane to application to patients and the full realm of medicine. Attendance might be off, since the added informational and educational benefits will not be provided.

The CAC is now a clinical meeting and no longer has the added benefit of claim processing and administrative clarity that is also needed by the physician community. So it is really not a Carrier Advisory Committee at all because it will no longer be advising the attendees on all points that the carrier is involved in for Medicare business.

The Medicare Carrier representatives recognize the need to be able to continue with the added level of communication with all physicians. This might need to continue on a quarterly basis with the specialty societies through the MSSNY Interspecialty Committee.

The revised rules of the CAC are now very concerned with any conflict of interest that might be associated with lobbying support for coverage of any particular item or service. When a commentator is now speaking with regard to a draft LCD, there are now questions about legal issues. In addition, there are questions about who the speaker is representing. Is a subject matter expert speaking as an individual, on behalf of a specialty society, a health system or on behalf of the manufacturing industry? Who are they speaking for and what are the liabilities?

Medicare CAC Local Coverage Determinations (LCDs) for consideration –

[Corneal Hysteresis](#) – Dr. Clark explained that for the Mini Med CAC of 2/25, the manufacturer of the device unfortunately, despite calls to them, chose not to participate. Hysteresis is a measure of resistance to deformation to an applied force. Corneal hysteresis (CH) is a measure of the viscoelastic dampening property of the cornea and is postulated to be a surrogate for the viscoelastic dampening properties of the posterior sclera and lamina cribrosa through which the retinal ganglion cell axons pass as they exit the eye. It has been theorized that glaucomatous damage to the retinal ganglion cell axons occurs at the lamina cribrosa and that viscoelastic differences in the lamina cribrosa are responsible for differential effects of intraocular pressure within these tissues and contribute to the susceptibility to intraocular pressure (IOP)-mediated damage. Studies show an association between a lower CH and glaucoma or glaucoma risk, and it has been proposed as a risk stratification tool for use in the treatment of glaucoma, glaucoma suspect, and ocular hypertension. CH is not itself a modifiable risk factor for glaucoma, but theoretically could signal the need for more aggressive IOP reduction.

The Ocular Response Analyzer (ORA) (Reichert Inc., Buffalo, New York, USA) is a non-contact tonometer that measures CH. The LCD is presented as a non-coverage policy.

Committee members had no comment on this policy.

Medicare Legislative Update

Kathy Dunphy of NGS Medicare advised the members of the changes that are taking place as the result of the 2019 Final Rule. A detailed summary of the directions are described here: <https://bit.ly/2WaID0N>.

There will not be significant changes on evaluation and management coding for the next couple of years. But starting in 2021, CMS does have plans to collapse the level of coding from the current 5 levels to two levels.

There is a new benefit. It is an opportunity for a telephone check but there are specific requirements. Please see the link shown above. A member questioned the cost sharing linked with this new benefit. Kathy advised that most beneficiaries have supplemental benefits that will address the cost sharing aspects of these benefits.

CMS is intent on reducing physician burden and that will result in some relaxation of some medical record documentation.

Kathy did reiterate the need to continue NGS Medicare's broad communication with MSSNY and the specialty societies resulting from the CAC changes.

In regard to LCDs that might need reconsideration, the following contact information is available:

Submission of electronic request is preferred

NGS.lcd.reconsideration@anthem.com

Fax: (315) 442-4011

Mail to:

National Government Services, Inc.

Medical Policy Unit

Attention: LCD Reconsideration Request

P.O. Box 7108

Indianapolis, IN 46207-7108

This will be useful if there is existing policy where a clinical diagnosis needs to be added. Please refer to Medical Policy Article (A52842) shown here: <https://bit.ly/2TWDqx4>

NYS Legislative Update

Mr. Morris (Moe) Auster of MSSNY's Governmental Affairs Division provided the members with an update. In the last election cycle there were 40 new members elected to the NYS legislature including 17 new members in the senate. Then, there was a flipping of control from the Republicans to the Democrats by a fairly sizeable margin.

Moe advised the members of the many topics being addressed this legislative session. The most extensive discussion centered on the potential benefits and significant concerns with the proposed "New York Health Act", concerns with legislation to permit "adult use" or "recreational" marijuana use, and the strong support for physician collective negotiation legislation (A.2393, Gottfried/S.3462, Rivera) that would enable physicians to better advocate for their patients in response to the increasing consolidation in the health care and health insurance industries.

Other key issues physicians are concerned with include:

- Support for important public health initiatives contained in the Governor's Budget including licensing PBMs, raising the tobacco/e-cigarette purchase age from 18-21, creating a Maternal Mortality Review Board, and eliminating pre-authorization for Medication Assisted Treatment (MAT).
- Opposing the estimated \$80/patient cut to deductible payments for patients covered by both Medicare and Medicaid proposed in the Governor's Budget
- Opposing the repeal of "prescriber prevails" for Medicaid FFS and certain Medicaid Managed Care prescriptions proposed in the Governor's Budget
- Concerns with provisions that would permit Nurse Practitioners and licensed social workers to treat injured workers and be directly reimbursed under Workers'

Compensation without coordination with a physician, as proposed in the Governor's Budget.

There being no additional business for today's meeting, the call was concluded at 12:00 noon. Dr. Schwalbe thanked the attendees for their participation and the call ended.

Respectfully submitted,

Steven S. Schwalbe, MD,
Chairman