

VIA ELECTRONIC SUBMISSION: <http://www.regulations.gov>

August 31, 2016

Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1656-P
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: CMS- 1656-P: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs, Organ Procurement Organization Reporting and Communication; Transplant Outcome Measures and Documentation Requirements; Electronic Health Record (EHR) Incentive Programs; Payment to Certain Off-Campus Outpatient Departments of a Provider; Hospital Value-Based Purchasing (VBP) Program

Dear Acting Administrator Slavitt:

The American Academy of Audiology (the "Academy") is the world's largest professional organization of, by, and for audiologists, representing over 12,000 members. The Academy promotes quality hearing and balance care by advancing the profession of audiology through leadership, advocacy, education, public awareness, and support of research. The Academy appreciates the opportunity to offer comments in response to the Centers for Medicare and Medicaid Services (CMS) proposed updates to the Hospital Outpatient Prospective Payment System (HOPPS) for CY 2017, as published in the *Federal Register* on July 14, 2016. The Academy's comments are provided below.

I. Proposed Reclassification of CPT Code 92540

The Academy recognizes CMS' efforts to review, revise, and reorganize Ambulatory Payment Classifications (APCs) across the HOPPS in order to collectively group services that are clinically similar with similar resource costs. As such, the Academy asks that CMS review the proposed APC placement for CPT code 92540. In the HOPPS proposed rule for CY 2017, CMS proposes to move this code from APC 5722- Level II Diagnostic Tests and Related Services to APC 5721-Level I Diagnostic Tests and Related Services. The Academy believes that CPT code 92540 is both clinically homogenous and more consistent in terms of resource use with its current placement in APC- 5722. Without clear rationale for the proposed APC reclassification in the proposed rule, the Academy believes that the change in APC placement may have been proposed in error.

Background

CPT code 92540 describes a basic vestibular evaluation with recordings, often used to evaluate a patient complaint of dizziness. The code and its descriptor are listed below:

CPT code 92540 Basic vestibular evaluation, includes spontaneous nystagmus test with eccentric gaze fixation nystagmus, with recording, positional nystagmus test, minimum of 4 positions, with recording, optokinetic nystagmus test, bidirectional foveal and peripheral stimulation, with recording, and oscillating tracking test, with recording.

In the HOPPS final corrected rule for CY 2015, this code appeared in APC 0363- Otorhinolaryngologic and Related Tests. In CY2016, as a result of CMS' comprehensive APC restructuring, CPT code 92540 was placed in APC 5722- Level II Diagnostic Tests and Related Services. Now, the HOPPS proposed rule for CY 2017 proposes moving CPT code 92540 from APC- 5722 to APC 5721- Level I Diagnostic Tests and Related Services.

We respectfully request that CMS maintain placement for CPT 92540 in APC 5722 to allow at least two years to gather data given the fluctuation in geometric means.

II. Proposed Changes to Payments for Certain Items and Services Furnished by Certain Off-Campus, Provider-Based Departments (PBDs)

The Academy, like many other stakeholders, has concerns regarding CMS' plans to implement Section 603 of the Bipartisan Balanced Budget Act of 2015. Section 603 specifies that off-campus sites that had not furnished services and submitted to Medicare "provider-based" billings as of November 1, 2015, will be considered "new" and, effective January 1, 2017, these sites will no longer be able to bill Medicare under the HOPPS. The Academy believes that CMS' proposal will further exacerbate the substantial problems that hospitals already face as a result of Section 603. CMS' proposal significantly limits existing provider-based locations from locating no matter what the reason, a policy that appears deeply disconnected from the practical realities of how hospitals operate. Hospitals constantly work to balance their needs in terms of space with the ability to do dependent on a number of factors, many beyond the hospital's immediate control. The new payment rules will also require hospitals to track all services furnished, and then differentiate between "old" and "new" services, placing heavy operational and administrative burdens on both hospitals and providers.

The Academy is particularly troubled over CMS' proposal to make this a one-year transitional policy to permit the Agency to explore operational changes that would allow an off-campus PBD to bill Medicare for its services under a Part B payment system other than the HOPPS beginning in 2018. The Academy believes that a one-year transitional policy will only increase the administrative and operational hardships associated with the implementation of Section 603, as providers will likely be required to establish separate contractual relationships to provide services in this transition year. The Academy is concerned about the potential impact of this policy on outpatient audiology clinics and cochlear implant centers. These clinics and centers provide invaluable services to patients, and restrictive policies, such as the one proposed by CMS, could impact patient access to these critical services, especially if exempted facilities must relocate in the future. The Academy urges CMS not to execute this temporary, transitional

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fix, but rather to work with hospitals and other provider organizations on policies that consider the practical realities of hospitals' operations.

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Please contact Kate Thomas, director of payment policy and legislative affairs, by phone 703-226-1029 or via email at kthomas@audiology.org should you have any questions regarding the Academy's comment letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ian Windmill". The signature is fluid and cursive, with a large loop at the end.

Ian Windmill, PhD
President, American Academy of Audiology