Legislative and Regulatory Update for Nephrology

Presented to the
11th Annual Business & Legal Issues in Dialysis and Nephrology Conference
Chicago, Illinois
May 16, 2013

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Legislative Overview

- Where We Were a Year Ago
- Fiscal ‘Crisis’ Timeline
- Washington Gridlock and Health Care
- Update on Legislation Affecting Physician/Dialysis Reimbursement
- Status of Immunosuppressive Drug Bill
- RPA’s Advocacy Agenda for 2013
  - Advocacy Activities/Issue Briefs
Regulatory Overview

- General Medicine/Nephrology Payment
- CPT/RUC Update
- Bundling/QIP Rules
- Acute Kidney Injury Policy Update
- ACO/CEC-ESCO Policy Development
- Performance Measurement Efforts
- Other Issues
Where Were a Year Ago

- Washington Gridlock at All-Time High
- Presidential Election Ensured No Movement on Mega-Issues Until Lame Duck
- Physician Payment Addressed in Two Steps
- ACA Awaiting SCOTUS Review
- ESRD Bundle Continued Refinement
- ESA Use Down, Transfusions Up (But How Much?)
- Early Days for ACO’s; What About Renal ACOs?
Fiscal ‘Crisis’-Timeline

- March 1- Sequester Nominally Took Effect
- March 27- Continuing Resolution (CR) Funding US Government Expired; Now Resolved
- April 1- Medicare Pay Cuts Implemented
- May 19- Original Debt Ceiling Limit Date; Real Deadline ~10/1/2013
- December 31- SGR Fix Expires
Washington Gridlock and Health Care

- Failure of Super Committee Omen for 2012
- By 2/2012, Congressional Inactivity Until Post Election a Certainty
- This Applied to Agreed Upon Issues (SGR)
- Much Less Controversial Ones (MedMal, Independent Payment Advisory Board)
- PDUFA An Exception...Because It Doesn’t Cost Anything!
- Year-End Hi-Jinks Lead to Undercover Cuts (ESRD PPS, Imaging)
Update on Legislation Affecting Physician/Dialysis Reimbursement

- Fiscal Cliff New Years Fix for 2013
- Outlook Now Much Brighter for Full Repeal
  - CBO Cost of SGR Repeal Fix Cut By >40%
  - House W&M, E&C Committees at Work on Bill; Discussion Draft Released
  - Optimistic View is Bill by 8/2013 at Latest
  - House Makeup, Especially in GOP, a Wild Card
- However, Usual Problems (Replacement, Offset) and New Ones (Use of Withhold-All Sticks/No Carrots) Could Cause Trouble
Update on Legislation Affecting Physician/Dialysis Reimbursement

- Unfortunately, ESRD PPS Consistent Offset for SGR Fix
- Bad Debt % Reduction = 2/2012 Offset
- In Fiscal Cliff Deal, 2014 Cuts Scheduled Based on Rebasing Of Drug Costs from 2007 to 2012
- While This Fix Reflects Community Input, It Is Still a Cut
- Oral-Only Drug Inclusion Delayed, Source of Controversy, CBO Appears to Refute NYTimes
- 2014 PPS Rebasing a MAJOR Concern
Immunosuppressive Drug Bill

- Bipartisan Immunosuppressive Drug Coverage Bill Introduced in 2011
- By COB 112th Congress, Bills Had 21 Co-Sponsors in Senate, 121 in House
- In 113th Congress, S. 323 Introduced 2/13, H.R. 1428 Introduced 4/9
- For This Congress, Bill Still in Early Days, But All Right Steps Being Taken
RPA’s 2013 Advocacy Agenda

- Legislative Priorities
  - Medicare Reimbursement/SGR Repeal
  - Immunosuppressive Drug Coverage
  - Medicare Acute Kidney Injury (AKI) Coverage Policy

- RPA Capitol Hill Day on June 10
2013 Final MFS Rule Review

- Rule Again Fairly Unremarkable
- Final 2013 Conversion Factor is ~$34.02 (About a 0.02% Decrease from 2012)
- CMS Creates Transitional Care Mgt. Codes (CPT Codes 99495/99496)
  - Nephrology Can Use on Non-MCP Patients
  - Non-Face-to-Face Codes
- Value-Based Modifier Moving Slowly, Steadily
2013 MFS and Nephrology

- Only High-Volume Nephrology CPT Code, 90935, Experiences 2% Cut
- 90960 (ESRD, Adult, 4x ) Reduced <1%
- But Specialty Overall Impacted 0%, Places in Mid-Range for All Specialties
- However, CMS Ignores AMA-RUC Angioplasty Recommendations, Implements Massive Cuts (~29% for 35475, 14% for 35476)
CPT/RUC Update

- RPA/ASDIN Part of Joint Presentation of Thrombectomy Code to RUC in January 2013
- RPA Monitoring Need for Survey of MCP Services Next Year (2014)
- Coordinated Care, Vessel Mapping, Central Blood Pressure Monitoring = Other Areas of Activity
Bundling Update

- ESRD PPS/Bundling Final Rule Released 11/2
  - 2013 Adjusted Bundle Rate = $240.36, a 2.3% Increase (Reflects 2.9% Market Basket Increase Minus a 0.6 Productivity Adjustment)
  - Rule Unremarkable Otherwise
  - CMS Dismisses Numerous Comments on Inadequacy of Home Dialysis Training Payment
Quality Incentive Program Update

- QIP Rule Also Released 11/1
  - No Substantial Changes for 2013, Other Than Finalizing Data Validation Process
  - Big News for 2014 = Finalization of Mineral Metabolism Reporting Measure
- 2015 Highlights Include
  - Removal of URR Dialysis Adequacy Measure
  - Continued Use of Hgb Ceiling Measure (No Floor)
  - Continued Use of VAT Composite Measure
In 2012, CMS Policy Revisions Undo Tacit Pact That Medicare AKI Patients Could be Dialyzed in ESRD Facilities

1\textsuperscript{st} Clarifies OPPS Billing for AKI Svcs

2\textsuperscript{nd} Essentially Bars Medicare Beneficiaries with AKI From In-Center Dialysis

Despite Vigorous Community Response, CMS Does Not Believe a Problem Exists
Acute Kidney Injury Policy Update

- CMS Has Recommended that Concerns Be Filtered Through MAC Med Directors
- RPA, Broader Community Urging Neph Practices to Advise MAC MDs of All Instances of Compromised AKI Care
- Several MAC MDs Have Expressed Interest in Addressing Issue
- In Meantime, Limited SOS’s for Patients, MDs Under Pressure to Sign 2728
ACO/CEC-ESCO Policy Update

- General ACO Rulemaking Finalized, Implementation Underway
- As of 4/1/2013, 203 Medicare ACO’s Up, # W/Private ACOs Expected to Soar
- In 8/2012, CMS Interpretation on Specialist Participation as PCPs Poses Problem for Nephs, All Specialties; May Be Overstated
- Despite Active Response (AMA, ACP, Etc.), Policy in Place for Now
CEC-ESCO (Renal ACO) Policy Update

- CEC=Comprehensive ESRD Care Initiative
- ESCO=ESRD Seamless Care Organization
- Original Time Lines Extended
  - Letters of Intent Now Due May 15
  - Applications Now Due July 1, 2013
- Patient Minimum Decreased to 350
- CMMI (Center for Medicare and Medicaid Innovation, aka Innovation Center) Held Several Conf Calls, Didn’t Say Much
Major Kidney Community
ESCO Concerns

- Plan for Rebasing in Years 4 and 5 (Cuts?)
- Perceived Arbitrariness of Size Minimum
- ESRD Patient Access to ESCOs
- Lack of Input on and ESRD Appropriateness of Quality Measures
- Uncertainty Regarding Waiver Process
- Absence of Detail on Plan for Evaluating Success of ESCO Project Overall
- Lack of Rulemaking Process
In March 2012, NQF Endorsed 5 RPA/AMA Developed Measures:

- Measure 1666: Patients on ESA--Hemoglobin Level > 12.0 g/dL
- Measure 1667: Pediatric ESRD Patients Hemoglobin Level < 10 g/dL
- Measure 1668: Laboratory Testing (Lipid Profile)
- Measure 0323: Hemodialysis Adequacy: Solute
- Measure 0321: Peritoneal Dialysis Adequacy: Solute
Other Issues

- ICD-10 Implementation Date Affirmed (For Now, and Virtually Certainly for Good); AMA Delay Effort Dismissed
- Intro Language for Inpatient Dialysis Codes (90935-37, 90945-47) Changed;
Other Issues

- **Meaningful Use**
  - Stage 2 Final Rule Released 8/2012, on Tap for 2014
  - Good News = Core Measure on Clinical Info Exchange Removed
  - Bad News = Still No Relief on Nephrology 50% Rule-Denominator Issue
  - Many Nephrologists Will Seek Exception
  - Stage 3 Delayed
Outlook-Legislative

Reason for Hope in 113th Congress
- Climate for Actual Legislating is Best in Years
- 2012 Election Results = Wakeup Call
- Many Legislators Mindful of Need for Bipartisanship (IRS, Benghazi Impact?)
- House Leadership Bent on Return to Order
- Of Course, Mega-Issues Still Remain
- But Efforts Such as ‘No Labels’ Intended To Shift Gravity to Center
Outlook-Legislative

Impact on Health Policy Priorities is:
- Current Model of Last Minute Deals/Scary Results May Be On Way Out
- Regular Order Facilitates More Thoughtful Review of Issues (Well, Relatively)
- Chance for SGR Repeal-Replace Profoundly Improved
- Likewise, Odds for Passage of Immuno Bill Enhanced
- Dialysis Reimbursement Still Vulnerable, But Return to Regular Order Would Make Process More Predictable, Transparent
Outlook-Regulatory

- On 4/9, SFC Holds Hearing, Approves Tavenner as Permanent CMS Administrator (The First Since.....2006?)
- ACA Implementation Likely to Overwhelm CMS This Year (If Not Already)
- PQRS, MU, E-RX, Value-Based Modifier Continue to Advance Paradigm Shift to VBP, For Better or For Worse
Outlook-Regulatory

- MFS Rulemaking—Modest Changes Foreseen, For Now
- Book on CEC-ESCO Implementation Yet to Be Written, Much to be Determined
- CPT/RUC Refinement, AKI Regulatory Advocacy, ICD-10 Implementation Will Require Vigilant Monitoring
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Thank You