REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 7-I-14

Subject: Medicaid Primary Care Payment Increases
(Resolutions 116-A-13 and 103-A-14)

Presented by: Jack McIntyre, MD, Chair

Referred to: Reference Committee J
(Melissa J. Garretson, MD, Chair)

At the 2013 Annual Meeting, the House of Delegates referred Resolution 116, "Extending Medicaid Payment Increases to Primary Care Physicians to Include Obstetricians/Gynecologists," which was introduced by the Michigan Delegation. Resolution 116-A-13 asked:

> That our American Medical Association (AMA) advocate for the extension of Medicaid reimbursement rate increases to primary care physicians to include obstetricians and gynecologists.

At the 2014 Annual Meeting, the House of Delegates referred Council on Medical Service Report 2, "Extending Medicaid Primary Care Payment Increases to Include Obstetricians and Gynecologists," which addressed Resolution 116-A-13. The report was referred because of controversy over the Council report's recommendation to advocate for obstetricians and gynecologists (ob-gyns) to receive the Medicaid primary care payment increases according to the same requirements as other qualified specialists. Opponents to that recommendation argued that ob-gyns should be included in the payment increases only if at least 60 percent of the codes they submitted to Medicaid in the previous year were for primary care services.

Also at the 2014 Annual Meeting, the House of Delegates referred Resolution 103-A-14, "Continuation of Federal Augmentation of Primary Care Medicaid Payments," which was introduced by the Washington Delegation. Resolution 103-A-14 asked:

> That our AMA advocate strongly for Congress to continue the federal augmentation of primary care Medicaid payments to Medicare rates in perpetuity.

This report addresses both Resolutions 116-A-13 and 103-A-14, clarifies the confusion at the 2014 Annual Meeting about the temporary Medicare Primary Care Incentive Payment Program, provides background on the temporary Medicaid primary care payment increases, summarizes primary care qualifications of ob-gyns, outlines the exclusion of ob-gyns as a qualifying specialty in the Medicaid primary care payment increases, considers continuation of the Medicaid primary care payment increases, highlights AMA advocacy and policy, and presents policy recommendations.

BACKGROUND

Although Resolutions 116-A-13 and 103-A-14, as well as Council on Medical Service Report 2-A-14, focused on Medicaid payments, the Affordable Care Act (ACA) included temporary provisions to increase specific primary care payments in both Medicare and Medicaid.

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Medicare

The ACA established the Medicare Primary Care Incentive Payment Program, which provides a 10 percent Medicare incentive payment for specific primary care services to qualifying primary care physicians in calendar years 2011 through 2015. Eligible primary care specialties include family medicine, internal medicine, geriatric medicine and pediatric medicine. To qualify for the incentive payment, physicians must be enrolled in Medicare as an eligible primary care specialist and have billed at least 60 percent of Medicare claims for primary care services in the two years prior to the bonus payment year. For physicians newly enrolled in Medicare who do not have claims data from two years prior to the bonus payment year, Medicare will make eligibility determination based upon claims data from the previous year. The primary care incentive payments include office and other outpatient visit codes 99201 through 99215; nursing facility, domiciliary, rest home, or custodial care codes 99304 through 99340; and home services codes 99341 through 99350. While the Medicare incentive payment may be confused with the ACA's Medicaid primary care payment increases, it is unrelated to the topic of this report and Resolutions 116-A-13 and 103-A-14.

Medicaid

The ACA included a provision to increase Medicaid primary care payments for certain primary care physicians to 100 percent of Medicare payment rates for calendar years 2013 and 2014. The primary care payment increases include Evaluation and Management (E&M) codes 99201 through 99499 and vaccine administration codes 90460, 90461, 90471, 90472, 90473, or their successor codes. These payment increases recognize the value of access to primary care services for Medicaid beneficiaries and the importance of adequate payment to physicians participating in Medicaid.

To qualify for the increased payments, physicians must first attest to practicing in family medicine, general internal medicine, pediatrics or a subspecialty of one of these specialties. Then, physicians must self-attest either that they are board-certified or that at least 60 percent of the codes they submitted to Medicaid in 2012 were for primary care services. Physicians who have attested to being board-certified in a qualifying specialty do not need to report the percentage of their primary care service codes. Physicians practicing in a qualifying specialty who are not board-certified must self-attest that at least 60 percent of the codes they submitted to Medicaid in 2012 were for primary care services. Board-certified physicians in a non-qualifying specialty (e.g., surgery) who practice in a qualified specialty (e.g., family medicine), can self-attest to a specialty designation of family medicine, general internal medicine or pediatric medicine and provide a supporting 60 percent claims history. Physicians who are board-certified in one of the qualifying specialties who do not actually practice in those areas should not self-attest to being a primary care provider.

The amount of payment increase is based on Medicare rates for calendar years 2013 or 2014, or if greater, the Medicare rate using the calendar year 2009 Medicare physician fee schedule conversion factor, which is a payment safeguard that protects against potentially large Medicare payment cuts due to uncertainty with the Sustainable Growth Rate formula. All states have now implemented the increased payment rates.

PRIMARY CARE QUALIFICATIONS OF OB/GYNS

Regarding Resolution 116-A-13, providing primary care for women is part of the training, board certification and maintenance of certification for ob-gyns. The Accreditation Council for Graduate Medical Education (ACGME) program requirements for accreditation include primary care for women as part of training for ob-gyns. *Educational Objectives: Core Curriculum in Obstetrics and*

Gynecology, developed by the American Congress of Obstetricians and Gynecologists' (ACOG) Educational Committee of the Council on Resident Education in Obstetrics and Gynecology, includes curriculum guidelines in primary and preventive ambulatory health care. In addition, the Obstetrics and Gynecology Milestone Project, a joint initiative by ACGME, the American Board of Obstetricians and Gynecologists (ABOG) and ACOG, provides a framework to assess the development of ob-gyn residents in key dimensions of physician competency, including primary care services.

ABOG affirms that ob-gyns provide primary and preventive care for women and serve as consultants to other health care professionals. ABOG certification is a 2-step process that includes written and oral examinations. The written examination has primary and preventive care outlined in the content of the exam. The oral examination regarding patients cared for in the first year in practice includes primary care for women in the office practice case list categories. In addition, ABOG's maintenance of certification examination includes "office practice and women's health only" as a primary care content area.

OB/GYNS EXCLUSION AS A PRIMARY CARE QUALIFYING SPECIALTY

In November 2012, the final rule on the Medicaid program, "Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration under the Vaccines for Children Program," was released. During the comment period on the interim final rule, ACOG urged Centers for Medicare & Medicaid Services (CMS) to include ob-gyns as qualifying specialists in the Medicaid primary care payment increases for 2013 and 2014.

CMS formally responded to ACOG's request by recognizing the role that specialty physicians play in providing primary care services. However, CMS stated that the authority does not exist to extend the payment increases to other categories of physicians not specified in the ACA, including ob-gyns.[1] Physicians with certification in Family Medicine Obstetrics, who are certified first in family medicine with additional certification in obstetrics, are able to self-attest to a qualified specialty because they practice as family practitioners.

ACOG has continued to advocate for extending the Medicaid primary care payment increases to include ob-gyns. Through communications with ACOG, the Council has learned that in June 2013, the organization entered into an agreement with the American Academy of Family Physicians, the American College of Physicians and the American Academy of Pediatrics to work together to advocate for the Medicaid primary care payment increases to apply to ob-gyns only if at least 60 percent of their Medicaid codes billed for the year are for the designated primary care and vaccination service codes.[2] Since that time, in July 2014, ACOG modified its position and now supports full parity for ob-gyns, and views the 60 percent threshold as "an important first step" toward that goal.[3]

CONTINUATION OF MEDICAID PRIMARY CARE PAYMENT INCREASES

Regarding Resolution 103-A-14, the ACA's primary care payment increases do not ensure ongoing access to care for Medicaid patients beyond 2014. The federal government currently pays the full cost of the Medicaid primary care payment increases. State interviews conducted in 2012-2013 by the Medicaid and CHIP (Children's Health Insurance Program) Payment and Access Commission (MACPAC)[4] indicated that several states are unlikely to continue the increased payment if they have to finance it without federal support. Some states voiced concern that if the payment increase is discontinued in 2015, it may negatively impact efforts to recruit physicians to the Medicaid program. Current Medicaid payment rates are on average 66 percent of Medicare rates,[5] which is

insufficient to ensure access to care for Medicaid patients and adequate payment to physicians providing care to these patients.

AMA ADVOCACY AND POLICY

In January 2013, the AMA sent letters to the National Governors Association[6] and the National Association of Medicaid Directors[7] calling on states to implement the payment increases expeditiously and to communicate with physicians about the timing of the pay increases. An online AMA advocacy document summarizes the Medicaid payment increases and outlines the final rule.[8] The AMA advocates that Medicaid payments to physicians must be at a minimum 100 percent of Medicare payment rates (Policies H-290.976[2], H-385.921, and H-290.980). In addition, the AMA promotes adequate Medicaid payment levels to assure broad access to care and opposes payment cuts that may reduce patient access to care and undermine the quality of care provided to patients (Policies H-290.997[4] and H-330.932).

According to Policy H-200.997, there should be a sufficient supply of primary care physicians defined as family physicians, general internists, general pediatricians, and obstetricians and gynecologists. The AMA believes that all of these physicians are capable of providing both primary care and consultative care (Policy H-385.959).

DISCUSSION

As previously noted, current Medicaid payment rates are on average 66 percent of Medicare rates, which is insufficient to ensure access to care for Medicaid patients and adequate payment to physicians providing care to these patients. The Council believes that long-standing AMA Policy H-290.976, which advocates that Medicaid payment to physicians must be at a minimum 100 percent of Medicare payment rates, should be reaffirmed. This policy addresses the need to increase Medicaid payment rates to Medicare rates for all physicians, regardless of specialty and without time limits.

The Council recognizes that ob-gyns have the training and certification to fulfill the role of a primary care physician as well as provide consultative care as stated in Policy H-385.959. Consistent with this policy position, the Council recommends its reaffirmation.

The Council believes that AMA advocacy efforts should focus on including obstetricians and gynecologists as qualifying specialists generally, without specifying a claims history threshold. If ob-gyns become included as qualifying specialists in the payment increase, they would need to adhere to the same requirements as other qualifying specialists. Specifically, if a board-certified ob-gyn becomes qualified, but does not actually practice in primary care, he/she should not self-attest to being a primary care provider. AMA advocacy efforts on this issue will need flexibility to accomplish the greatest possible outcome in the current and evolving political climate, which may require incremental steps.

Advocating for the extension of Medicaid primary care payment increases past 2014 may be difficult due to budgetary implications and the unknown impact on access to care and provider participation. Even so, the Council believes that supporting an extension of the payment increases is in the best interest of physicians who participate in Medicaid and their patients. The request in Resolution 103-A-14 calling for continuation of the ACA's Medicaid primary care payment increases "in perpetuity" is consistent with the Council's recommendation to continue the payment increases past 2014.

RECOMMENDATIONS

The Council on Medical Service recommends that the following be adopted in lieu of Resolution 116-A-13 and Resolution 103-A-14, and that the remainder of the report be filed:

1. That our American Medical Association (AMA) reaffirm Policy H-290.976, which advocates that Medicaid payments to physicians must be at a minimum 100 percent of Medicare payment rates. (Reaffirm HOD Policy)

2. That our AMA reaffirm Policy H-385.959, which recognizes obstetricians and gynecologists as capable of providing both primary care and consultative care. (Reaffirm HOD Policy)

3. That our AMA advocate that the Affordable Care Act's Medicaid primary care payment increases for Evaluation and Management codes and vaccine administration codes include obstetricians and gynecologists as qualifying specialists, and support flexibility to achieve the best possible outcome. (Directive to Take Action)

4. That our AMA advocate for the Affordable Care Act's Medicaid primary care payment increases to continue past 2014 in a manner that does not negatively impact payment for any other physicians. (Directive to Take Action)

Fiscal Note: Less than $500.

REFERENCES

[1] U.S. Department of Health and Human Services: Centers for Medicare and Medicaid Services. Medicaid Program: Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration Under the Vaccines for Children Program; Final Rule. Federal Register 2012;77:215:66674 Available at: http://www.gpo.gov/fdsys/pkg/FR-2012-11-06/pdf/2012-26507.pdf
[2] Lawrence, H. Letter to the American Medical Association from the American Congress of Obstetricians and Gynecologists. June 24. 2014.
[3] Jennings, J. C. Letter to Senators Murray and Brown from the American Congress of Obstetricians and Gynecologists. July 29, 2014.
[4] Medicaid and CHIP Payment and Access Commission. Report to the Congress on Medicaid and CHIP. 2013. Available at http://www.macpac.gov/reports
[5] The Henry J. Kaiser Family Foundation. Medicaid-to-Medicare Fee Index. 2012. Available at: http://kff.org/medicaid/state-indicator/medicaid-to-medicare-fee-index/
[6] American Medical Association. AMA letter to the National Governors Association. 2013. Available at: http://www.ama-assn.org/resources/doc/arc/nga-medicaid-primary-care-payment-increase.pdf
[7] American Medical Association. AMA letter to the National Association of Medicaid Directors. 2013. Available at: http://www.ama-assn.org/resources/doc/arc/namd-medicaid-primary-care-payment-increase.pdf
[8]American Medical Association. Advocacy Resource Center. Medicaid Payment Increase for Primary Care Physicians. 2013. Available at: http://www.ama-assn.org/resources/doc/arc/medicaid-final-rule-summary.pdf