



# ADVOCACY UPDATE

August 9, 2010

## **2010 Medicare Trustees report confirms steep physician cuts ahead**

On August 5, the Medicare Trustees released their annual report on the status of and outlook for the Medicare program. The report had been delayed for several months in order to incorporate the effects of the Affordable Care Act (ACA). The Trustees project that as a result of changes made by the ACA, the solvency of the Hospital Insurance Trust Fund, which funds Medicare Part A, will be extended by 12 years to 2029. For Medicare Part B, the most striking aspect of the Trustees Report is its confirmation of the precipitous declines in Medicare physician payment rates that will start in less than four months. Specifically, the Trustees forecast a 23% cut on December 1, 2010, another 6.5% cut one month later on January 1, 2011, and an additional 2.9% cut on January 1, 2012. With these cuts, 2011 payment rates would be 28% below November 2010 rates, and 2012 payment rates would be 30% below their November 2010 level.

As in each Trustees report for the last several years, Medicare Actuary Rick Foster states that while the Part B projections are a reasonable forecast of what would happen under current law, "they are not reasonable as an indication of actual future costs" because legislative action is expected to override the projected cuts. The report also states that if the physician payment cuts do in fact occur, "secondary effects could include (i) substantially reduced beneficiary access to physicians; (ii) a significant shift in enrollment to Medicare private health plans; (iii) an increase in emergency room services; (iv) an increase in mortality rates; and/or (v) an increase in hospital services."

The extension in the solvency of the Hospital Insurance Trust Fund is due primarily to three ACA provisions: reductions in payment rates to Medicare Advantage plans, reductions in hospital and certain other provider market baskets to account for productivity increases, and increased Trust Fund income due to an increase in the Medicare payroll tax for people above a certain income threshold. The Medicare Actuary is skeptical that the productivity reductions can be sustained over the long term, so the Office of the Actuary has developed an alternative forecast for the Part A Trust Fund in which the full market basket updates are gradually restored. Under this alternative scenario, the Part A Trust Fund would remain solvent until 2028 instead of 2029. Under either the main or the alternative forecast, however, the Trustees project that the Part A Trust Fund will remain solvent for many more years as a result of the ACA.

## **EHR webinar and new CMS fact sheets on Incentive Program available**

AMA will host a webinar on Monday, August 16, from 5-6:30 pm Eastern time on the new Medicare and Medicaid Electronic Health Record (EHR) Incentive Program. The featured

presenter will be Karen Trudel, the Deputy Director of the Office of E-Health Standards and Services (OESS) at the Centers for Medicare and Medicaid Services (CMS), the office charged with oversight of these programs. [Register today](#) for the AMA's August 16 webinar presentation. If you can't listen in live [Go ahead and register](#). We'll send you a post-event e-mail with the materials and a link to the AMA's webinar archive.

Please note that CMS recently posted some new fact sheets on the incentive program for physicians (referred to as "eligible professionals") at <http://www.cms.gov/EHRIncentivePrograms/>. We will also continue to post information to our website at [www.ama-assn.org/go/hit](http://www.ama-assn.org/go/hit).

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### **CMS hosts session on feedback reports and value-based payments**

Both the Medicare Improvement for Patients and Providers Act (MIPPA) and the ACA contained provisions calling for Medicare to issue confidential feedback reports to physicians on resource utilization, and to develop a value-based purchasing strategy for physicians. In addition, the ACA called for the creation of a budget neutral modifier that would increase payments for some physicians and reduce them for others based on value. In the proposed 2011 physician payment rule issued last month, CMS outlined its current and anticipated work in these areas and said it will “engage in a large-scale effort to garner widespread stakeholder involvement with how we continue to build and expand the confidential feedback program and transition to implementation of the payment modifier.”

As part of that effort, CMS recently announced that it will hold a listening session on the feedback reports and value-based modifier with physicians and other stakeholders. The meeting will take place on Friday, September 24, from 10:00 am to 4:00 pm Eastern time. Those interested in attending the meeting or in participating by teleconference must register by completing the on-line registration via the CMS Web site at: <http://www.eventsvc.com/palmettogba/092410>.

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### **CMS hosts PQRI listening session on education and outreach**

On August 3, the AMA participated in a CMS listening session on opportunities to further engage eligible professionals about the Physician Quality Reporting Initiative (PQRI). The session specifically addressed current PQRI education and outreach activities, and solicited feedback on how to improve them. To prepare for this meeting, the AMA asked medical specialty and state societies to list their top three recommendations for improving the PQRI program. By far the most common grievance reported was timeliness of PQRI feedback and incentive payments from CMS. Others expressed the need to improve the focus of monthly CMS National Provider Calls, so that they address specific aspects of the program such as reporting modalities and time periods, reporting of individual measures versus measure groups, and common PQRI reporting mistakes. Other meeting participants included representatives from medical specialty societies, who urged the agency to harmonize its education and outreach activities around participation in PQRI, as well as the Electronic Prescribing Incentive Program (eRX) reporting and EHR Meaningful Use program. The agency will use information gathered at the listening session to improve education and outreach activities moving forward.

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## **New aggregate-level 2010 PQRI reporting data posted**

CMS recently posted a 2010 PQRI aggregated quality data code error report by measure for January 1 through March 31, 2010. While not a substitute for timely, individual feedback for program participants, these aggregate reports allow medical specialty societies and individual physicians to identify reasons why quality measure submissions were deemed invalid (e.g., incorrect age, gender, or diagnosis code). This report is available under the “analysis and payment” section of the CMS PQRI, located at: [http://www.cms.gov/PQRI/Downloads/1Q\\_2010\\_QDC\\_Submission\\_Error\\_Report\\_by\\_Measure\\_071510.pdf](http://www.cms.gov/PQRI/Downloads/1Q_2010_QDC_Submission_Error_Report_by_Measure_071510.pdf).

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## **CMS to host August national provider call on PQRI and eRx programs**

CMS will host a national provider conference call on the 2010 PQRI and eRx incentive programs. The call is scheduled to take place from 3:00-4:30 pm Eastern time on Tuesday, August 17. Following a formal CMS presentation providing a step-by-step review of how to start participating in the 2010 PQRI program, there will be an opportunity for call participants to ask questions of CMS PQRI and eRx subject matter experts. To receive call-in information, you must register at <http://www.eventsvc.com/palmettogba/081710>. Registration will close at 3:00 pm Eastern time on August 16. A PowerPoint slide presentation will be posted to the PQRI webpage at: [http://www.cms.gov/PQRI/04\\_CMSSponsoredCalls.asp#TopOfPage](http://www.cms.gov/PQRI/04_CMSSponsoredCalls.asp#TopOfPage), on the CMS website for download prior to the call.

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## **House Energy and Commerce Committee approves medical liability protections for volunteers**

On July 18, the Energy and Commerce Committee approved H.R. 1745, the “Family Health Care Accessibility Act,” by voice vote. The bill, which was introduced by Representatives Tim Murphy (R-PA) and Gene Green (D-TX), would amend the Public Health Service Act to provide federal tort claims act (FTCA) liability protection for volunteer practitioners at community health centers. It is not yet known when this legislation will be considered by the full House.

**AMA Position:** AMA policy supports the concept of liability protection for medical volunteer services and supports legislative efforts to achieve this goal.

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## **New AMA Report on Medical Liability Claims Frequency**

A new report from the AMA's Division of Economic & Health Policy Research paints a bleak picture of physicians' experiences with medical liability claims and bolsters the case for national and state level reform. “Medical Liability Claim Frequency: A 2007-2008 Snapshot of Physicians” provides rarely available estimates of the frequency with which medical liability claims are filed against physicians, both over a 12 month period and over the course of a physician's career. One key finding is that, in the course of their careers to date, there were 95 medical liability claims filed for every 100 physicians. The report also examines how claim incidence differs according to a physician's specialty, age, gender, delivery setting and ownership status. The report is available at: <http://www.ama-assn.org/ama1/pub/upload/mm/363/prp-201001-claim-freq.pdf>.

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## **AMA and MGMA offer toolkit to assist in practice management system software selection**

The upcoming transition to the government's modified electronic transaction standards, coupled with the Medicare and Medicaid electronic health record incentive program, will require physician practices to upgrade or replace their current practice management software. To help you select and purchase the most appropriate software for your practice, the AMA and the Medical Group Management Association (MGMA) collaborated to develop a new online toolkit. Free to members of the AMA and the MGMA, the new **"Selecting a Practice Management System" toolkit** provides a roadmap to make this process easier for your practice. You can use this information to establish your practice needs and take advantage of recent improvements in automation. The toolkit resources include:

- A five-step guide to practice management system software selection.
- A comprehensive checklist that helps you determine which practice management system software features and functionalities are essential to your practice and which will enhance your revenue cycle management.
- A sample "request for proposal" that you can employ in your communications with practice management system software vendors.

Visit [www.ama-assn.org/go/pmssoftware](http://www.ama-assn.org/go/pmssoftware) to start taking advantage of this valuable toolkit today.

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## **Illinois governor signs truth in advertising legislation**

Illinois physicians scored a victory for patients last week when the governor signed Senate Bill 3509, the "Truth in Health Care Professional Services Act" into law. The Illinois State Medical Society used AMA model legislation as the foundation for this new truth in advertising law. S.B. 3509 requires advertisements for health care services to indicate the type of license held by the individual who advertises the service. Under the new law, deceptive or misleading ads are punishable and deemed acts of professional misconduct. Visit the **Illinois General Assembly Web site** for more information about the new law.

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## **AMA opposition to West Virginia Board of Optometry proposed rule**

The AMA recently joined the American Academy of Ophthalmology, the West Virginia State Medical Association and the West Virginia Academy of Ophthalmology in opposing a proposed rule from the West Virginia Board of Optometry that goes beyond the scope of West Virginia law and raises significant patient safety issues. Specifically, the AMA believes the proposed rule violates West Virginia law in several ways, including granting optometrists the authority to treat systemic disease. In addition, the proposed educational requirements raise troubling patient safety concerns, and proposed treatment guidelines and other patient protections are severely lacking. Visit [www.ama-assn.org/go/tia](http://www.ama-assn.org/go/tia) to access related AMA model legislation.

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## **AMA, 64 medical associations comment on NBME national health system policies**

The AMA, American Osteopathic Association, and more than 60 additional state medical associations and specialty medical societies responded to new draft policy from the

National Board of Medical Examiners (NBME) last week. The NBME draft policy regarding implementation of health system reform raises numerous concerns, and the medical associations' response highlighted three main areas. First, the organizations believed that the NBME should highlight professionalism and ongoing efforts by physicians to ensure the highest standards in medicine. Second, the medical associations emphasized that a licensing exam is only one component required for patient safety and that a licensing exam alone cannot determine quality or measure performance. Third, rather than blur or obscure the roles of health care professionals, the organizations urged that the NBME recognize that the public is best served by clear definition of the roles and distinction of the skills of the various members of the health care team.