



Medicare Regulatory Issues August 2009

ISSUE: The Department of Health and Human Services is currently pursuing several Medicare regulatory issues that are of particular concern to APA. Chief among these are the implementation of the “six classes of clinical concern” provision of the Medicare Improvements for Physicians and Patients Act (MIPPA) of 2008, the inclusion of psychiatrists in the medical home project and a resolution of the physician payment issue.

BACKGROUND:

Six Classes of Clinical Concern:

Section 176 of MIPPA codifies special protections for access to medications used by vulnerable populations and directs the Centers for Medicare and Medicaid Services (CMS) to issue regulations to ensure that these protections are maintained.

CMS recently published an Interim Final Rule stating that they would continue existing coverage for the currently protected six classes (anti-depressants, anti-psychotics, anti-convulsants, anti-retrovirals, anti-neoplastics and immunosuppressants) for 2010, but announced that the Agency will conduct a study to determine which classes meet the statutory criteria for full protection under the new law. They have indicated that this study may lead them to increase the number of classes, however, CMS also states in the rule that the study might lead to the elimination of currently protected classes.

APA strongly advocates that CMS continue to protect the current classes and follow a transparent process when deciding which additional drug classes will receive protection. APA also urges CMS to consult experts in psychopharmacology and APA's treatment guidelines during the process and to consider how the policy will affect the most vulnerable Medicare beneficiaries in the future. CMS has yet to release a final rule addressing the comments submitted.

Medical Home Demonstration Project:

As directed by statute, CMS has undertaken a demonstration project to provide targeted, accessible, continuous and coordinated care to Medicare beneficiaries with chronic or prolonged illnesses requiring regular medical monitoring, advising or treatment through a “medical home” model. The goal of this demonstration is to test the practical and fiscal viability of the medical home model for delivering high quality healthcare.

Current CMS guidelines for the Medicare medical home demonstration program specifically exclude psychiatrists even though there are several mental disorders and substance use disorders included in the list of chronic conditions amenable to this program. There is no requirement in the federal statute for such a categorical exclusion and, if anything, effective medical home programs should facilitate close collaboration between primary care and psychiatry. APA believes that CMS should consider including psychiatrists in the medical home model for Medicare patients with a primary diagnosis of mental illness and alter the demonstration project to examine this option.

APA POSITION: APA urges Congress to ensure that CMS follows the legislative intent of Section 176 of MIPPA and ensure that the proposed regulatory process does not lead to elimination of the protections for any of the six classes of clinical concern. APA also urges Congress to encourage CMS to establish a "psychiatric medical home" demonstration given the growing need for appropriate clinical care for those persons with a primary diagnosis of mental illness.