



July 30, 2015

CMS PROPOSES PAYMENTS FOR ADVANCE CARE PLANNING SERVICES

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On July 8, 2015, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule to update payment policies, payment rates and quality provisions for services furnished under the Medicare Physician Fee Schedule (PFS) for calendar year 2016. The PFS provides payment for services furnished by physicians and other health care practitioners to Medicare beneficiaries, which include but are not limited to, office visits, surgical procedures, diagnostic tests, therapy services, and certain preventive services. Notably included in the 2016 proposal is a provision that, if finalized, would establish separate payments for advance care planning services.

Advance care planning is a service that includes early conversations between patients and practitioners, both before and during the treatment of an illness, to decide on the type of care the patient desires should they become incapacitated. This discussion could be related to the patient's preferences for end-of-life care and the establishment of an advance directive or living will. The proposed rule is intended to better enable seniors and other Medicare beneficiaries to make important decisions related to the type of care they receive should they ever be unable to speak for themselves.

CMS has proposed two CPT codes for purposes of billing advance care planning services. The first thirty minutes of face-to-face advance care planning, including the explanation, discussion and/or completion of advance directive forms by a physician or other qualified health professional, would be covered by CPT code 99497. If the advance care planning lasts beyond thirty minutes, then add-on CPT code 99498 is available for each additional thirty minute period. These codes may be billed separately or in addition to other services rendered to the Medicare beneficiary during the visit.

Currently, Medicare provides coverage for advance care planning under the initial "Welcome to Medicare" visit available to all beneficiaries. However, many Medicare beneficiaries may not require these services when they first enroll in the program. The establishment of separate payment codes will provide Medicare beneficiaries and practitioners greater flexibility to utilize advance care planning sessions when most appropriate for the patients and caregivers. For patients who choose to take advantage of advance care planning, it ensures that they receive health care treatment consistent with their wishes should they ever become unable to make their own health care related decisions.

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The proposed rule is not yet final and CMS is accepting public comments until September 8, 2015. Specifically, CMS is soliciting comments on whether advance care planning payment is needed, what type of incentives this proposal creates and whether payment for advance care planning is appropriate in other circumstances, such as an optional element of the beneficiary's annual wellness visit. While CMS has considered advance care planning codes in the past, if now finalized, CPT code 99497 and CPT code 99498 will receive "active" status as of January 1, 2016. The proposed rule and instructions for submitting comments can be viewed on the *Federal Register's* [website](#).

For more information on CMS's proposal or related issues, please feel free to contact any member of the firm's Health Care Law practice group for further discussion.

DISCLAIMER: This Legal Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client. If someone you know would like to receive this Legal Alert, please send a message to Meghan V. Hoppe, Esq., at mvh@spsk.com. Ms. Hoppe is a member of the Health Care Law Group Practice Group at Schenck, Price, Smith & King, LLP.

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