



URGENT: SUBMIT COMMENTS TO CMS ON ASC RULE NOW!!

As you are by now aware, the Centers for Medicare and Medicaid Services (CMS) published in August its proposed regulation to establish a new ASC payment system and update the ASC procedures list. While CMS has adopted a number of recommendations made by OOSS in recent years, the proposal is problematic with respect to many of our priorities. In 1998, when CMS issues its last payment regulation, the nation's 3,000 ASCs submitted over 13,000 comments, resulting in the agency's ultimate retraction of the rule. *It is imperative that each and every OOSS member and ophthalmic ASC in the country submit a comments letter to CMS urging that a number of key changes be made in the proposed regulation.* We are providing you with "talking points" that will assist you in preparing a brief, but cogent and persuasive letter, to CMS.

Comments must be in CMS' hands by Monday, November 6.

To Submit Comments Electronically: You may submit electronic comments on specific issues in this proposed regulation at <http://www.cms.hhs.gov/eRulemaking/>. Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, CMS prefers Microsoft Word.). Please send a blind copy to our Washington Counsel, Michael Romansky, at mromansky@ooss.org.

To Submit Comments by Regular Mail: If you wish to submit comments by regular mail, CMS rules require that you send *an original and two copies* to:

Centers for Medicare & Medicaid Services,
CMS-1506-P
Department of Health and Human Services,
Attention: CMS-1506-P
P.O. Box 8011,
Baltimore, MD 21244-1850

To Submit Comments by Express or Overnight Mail:

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1506-P

Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Address Correspondence To:

Leslie V. Norwalk, Esq., Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1506-P
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, NW
Washington, DC 20201

**TALKING POINTS FOR YOUR COMMENT LETTERS TO CMS
REGARDING THE PROPOSED ASC PAYMENT REFORM AND
PROCEDURES LIST RULEMAKING**

In drafting your comments letter to CMS regarding the proposed rulemaking, OOSS suggests that you touch on the following principles. Your comments can be brief and should emphasize your commitment to high quality and lower cost cataract and other ophthalmic surgical care, as well as your experience providing care in the ASC environment. .

Personalize Your Letter. Identify yourself and describe your center, the types of procedures your ASC performs, the number of Medicare patients your practice serves each year, and any other relevant characteristics of your ASC.

ASC List. CMS' proposed reform of the ASC procedures list remains far too restrictive. The decision as to site of surgery should be made by the surgeon in consultation with his patient. ASCs should be permitted to furnish and receive facility reimbursement for any and all procedures that are performed in HOPDs.

Proposed ASC Payment of 62% of the Hospital Outpatient Department (HOPD) Rate. CMS, citing budget neutrality restrictions imposed by Congress, is proposing to pay ASCs only 62% of the procedural rates paid to HOPDs. This percentage rate is wholly inadequate and doesn't reflect a realistic differential of the costs incurred by hospitals and ASCs in providing the same services. The agency should interpret the budget neutrality provision to permit ASCs to be paid at a rate of 75% of the HOPD rate, as recommended by the ASC industry.

Uniform Percentage for All Services. Whatever percentage is eventually adopted by CMS in the final regulation, it should be applied uniformly to all ASC services, regardless of the type of procedure or the specialty of the facility. *(Note: some specialty groups are recommending that their facilities receive a higher percentage-of-HOPD, which would result in a decline in payment for all other services.)*

Payment Rates for Office-Type Procedures. Although CMS has added many ophthalmic services to the ASC list, the agency would pay for many office-type services, like laser procedures, at the Medicare Professional Fee Schedule practice expense amount, i.e., your current reimbursement rate, rather than at the 62% rate. As noted above, whatever percentage is ultimately adopted by CMS, it should be applied uniformly to all services, regardless of type.

Annual Updates of Payment Rates. Under current law, ASCs are provided no annual cost-of-living updates from 2004-2009, notwithstanding significant increases in the costs of delivering care. Commencing in 2010, CMS is proposing to pay ASCs an update equal to the consumer price index (CPI), while HOPDs would be paid an update based on the hospital market basket (HMB), which is typically higher. The new payment system should provide hospital market basket updates to both ASCs and HOPDs since both provide the same services and incur the same costs in delivering high quality surgical care

You may review the CMS regulation at:

http://www.cms.hhs.gov/ascpayment/06_cms1506P.asp