



California Academy of Eye Physicians & Surgeons

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**Alternate

September 9, 2023

Via Regulations.gov

The Honorable Chiquita Brooks-LaSure, MPP

Administrator

Centers for Medicare & Medicaid Services (CMS)

7500 Security Boulevard

Baltimore, MD 21244

Re: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; etc. (CMS-1786-P)

Dear Administrator Brooks-LaSure:

On behalf of the California Academy of Eye Physicians and Surgeons, which represents the interests of our patients and the approximately 2,000 ophthalmologists practicing in our state that constitute **approximately 10% of the ophthalmologists in the country**, we are writing to comment on the above-referenced Proposed Rule and appreciate the opportunity to provide input.

A. ASC Payment for CPT 68841 (Insertion of Drug Eluting Implant, including Punctal Dilation where Performed, into the Lacrimal Canaliculus)

We are aware of requests for separate facility payment for CPT 68841 during 2023 rulemaking, which CMS rejected at that time based on its performance with the "significant" procedure cataract surgery with high frequency, assigning it an OPPS status indicator of "Q1" and an associated ASC payment indicator of "N1."

Unfortunately, we are also aware that failing to provide separate facility payment creates a disincentive for an ASC to allow the procedure – which eliminates post-operative compliance issues that may threaten the surgical result – to be performed. This is because there are resources including additional operating room time beyond those needed for the primary procedure.

We further note that Multiple Procedure Reductions would lower the published facility payment for 68841 by 50%, and – when the eluted drug is a steroid (e.g., Dextenza) – that Medicare and the patient would be saved the cost of post-operative medications, driving any change in the direction of a "wash" financially.

Lastly, there are situations where 68841 is not done in combination with cataract surgery. For example, when the procedure is performed to treat a

patient that has allergic conjunctivitis, the patient does not receive another ophthalmic procedure that day. As a result, we feel CMS has inaccurately assigned “Q1”/“N1” status indicators to the procedure.

Please consider these facts and modify the OPPS Status indicator for 68841 to “J1” to allow appropriate payment for this service in an ASC, where the vast majority of such implant placements in facilities occur.

B. Part B Payment for Drugs Administered at the Time of Cataract Surgery Not Integral or Necessary to the Cataract Procedure

On a more overarching basis related to the discussion in A., we echo the comments of the American Academy of Ophthalmology, the Outpatient Ophthalmic Surgery Society, the American Society of Cataract and Refractive Surgery, the American Society of Retina Specialists, and the Society for Excellence in Eyecare calling for CMS to develop a policy that covers all drugs that are administered at the time of cataract surgery, but are not integral or necessary to the cataract procedure separately under Part B, extends expiring pass-through status for related medications, and that would extend payment to the Hospital Outpatient Department setting.

Surgeons should have the flexibility to offer Medicare beneficiaries individualized medically necessary therapies, which is hindered by payment uncertainty for facilities.

Thank you for considering our comments.

Sincerely,



Craig H. Kliger, MD
Executive Vice President