

Laboratory Services Payment Threatened Once Again

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It is discouraging to have to report that the reimbursement for clinical laboratory services is once again the target of budget-cutting strategies, this time proposed by the Republican leadership in the US House of Representatives. Congressman Bill Thomas (R-CA), Chairman of the House Ways and Means Committee, has released details of the House Medicare Reform Plan that he hopes to pass in June 2002. The plan contains a long list of reforms and improvements to the Medicare program, including the beginnings of a prescription drug benefit for Medicare beneficiaries. Funding of the drug plan creates the need to save money somewhere else. Of most interest to the laboratory community is the provision that states **“Clinical Diagnostic Laboratories: eliminate CPI increase until competitive bidding for these services takes effect.”**

At the ASCLS/CLMA Legislative Symposium on March 18 and 19, 2002, the more than 80 attendees carried a strong message to House and Senate offices about the acute need for an increase in the Medicare fee schedule for clinical laboratory services to occur in fiscal 2003.

Laboratories have been ‘squeezed’ for many years by the payment policies of the outpatient Medicare program (Part B), and by those of managed care organizations. The Medicare Fee Schedule payments for outpatient laboratory tests have been frozen at the same level, without even a consumer price index (CPI) increase, for 9 of the past 13 years. The Balanced Budget Amendments of 1997 (BBA) imposed a five-year freeze on the fee schedule for fiscal years 1998 through 2002. Without Congressional action to the contrary, the freeze will end this fall and a CPI increase to the fee schedule will occur at the beginning of FY 2003 (October 1, 2002).

It is often stated that laboratories provide 70% of the objective information used in diagnosis and treatment decisions. Yet, reimbursement for laboratory testing comprises just 1.6% of the Medicare budget. CMS data shows that payments with the Medicare Part B fee schedule for outpatient laboratory tests declined from \$3.8 billion in 1992 to \$3.6 billion in 1998, while volume of testing increased. Costs of providing quality laboratory testing continue to rise due to new federal regulations, increasingly burdensome requirements imposed by Medicare contractors, personnel shortages, safety regulations, and keeping pace with new technology.

Effects of Competitive Bidding

Proposals to implement a competitive bidding process for clinical laboratory services have been made many times over the years. ‘Demonstration projects’, in specific state or metropolitan areas to test the effectiveness of such proposals in savings for the Medicare program, have been proposed. While competitive bidding for laboratory services has not been implemented, demonstration projects in the area of durable medical equipment (DME) have not been effective.

Laboratory testing is a service, not a commodity. This effort will be far more difficult than implementing competitive bidding for healthcare equipment or supplies, which are usually standard and interchangeable. Laboratory testing is a service, and quality can vary depending on the provider. In addition, immediate access to service is an important factor for much laboratory testing, whereas needs for equipment can often be anticipated.

Competitive bidding provides incentives for laboratories to knowingly submit bids below their actual costs in order to ‘meet or beat’ the competition to obtain Medicare business. When revenues are less than costs, a laboratory cannot maintain the resources necessary to provide timely results that are accurate and reliable. As that occurs, Medicare beneficiaries will suffer the consequences of poor quality.

ASCLS believes that competitive bidding violates Medicare’s basic premise that a beneficiary should have access to “any willing provider”. The results will destroy most hospital and smaller private laboratories around the nation who will not be able to provide services at the ‘winning price’, since these laboratories do not realize the economies of scale of large commercial ventures. Even large commercial laboratories face risk since, if there are to be multiple ‘winners’ to maintain access, there would be no guarantee of volume, making a profitable bid almost impossible.

Support for the position of the laboratory community on competitive bidding and the need for regular CPI increases has been heard strongly from a report commissioned by Congress and published by the Institute of Medicine (IOM) in December 2000. (see details in the Washington Beat column in the Spring 2001 issue of *Clinical Laboratory Science*). The IOM’s recommendations lend the support of an independent non-governmental commission to positions that ASCLS has taken over the years.

Competitive bidding would move the Medicare Program toward a complex and expensive payment methodology rather than toward a more rational, simple system as recommended by the IOM study. The IOM Report concluded that competitive bidding would likely result in multiple fee schedules across the country and possibly even within separate bidding areas. In fact, what the system needs, as the IOM recognized, is a single national rational fee schedule based on the current national limitation amounts, the ceiling on Medicare reimbursement levels.

All of the laboratory professional groups have united in their opposition to these proposals. The eight groups that are members of the Clinical Laboratory Coalition have all urged their members to advocate for the laboratory community’s position on these matters. This time, we also have the support of the American Hospital Association, which faced other cuts as part of the proposal, but also realizes the impact of the laboratory proposals on outpatient services provided by hospital laboratories and their outreach programs.

The ASCLS Government Affairs Committee has alerted key contacts in the states and asked that they contact their members of Congress in opposition to the provisions of the House Medicare Reform Plan that would again freeze laboratory fees and that call for competitive bidding for laboratory services. If you would like to help with this effort, check the ASCLS Web page for updated information. Timelines in Congress often change, and this matter may take some time to resolve. You may find contact information for your Senators and Representatives at (www.thomas.loc.gov). E-mails, fax, and phone calls are the preferred methods of communication, since mail is slowed by the screening processes instituted since the anthrax incidents in late 2001.