Dear Dr. Berwick:

The Society of Nuclear Medicine (SNM) is pleased to provide comments on the final rule for Medicare payments in the Physician Fee Schedule (PFS) for calendar year 2011, published in the Federal Register on November 29, 2010, by the Centers for Medicare & Medicaid Services (CMS). The SNM’s more than 17,000 members set the standard for molecular imaging and nuclear medicine practice by creating guidelines, sharing information through journals and meetings, and leading advocacy on key issues that affect molecular imaging and therapy research and practice.

We offer comments and recommendations on the following topics addressed in this final rule:

- Physician Practice Information Survey
- Implementation of Technical Correction for Myocardial Perfusion Imaging Codes
- RUC Five Year Review – Multi-Specialty Points of Comparison List
- Updating Equipment and Supply Price Inputs for Existing Codes
- Other Outstanding Issues Pending Which Require CMS Attention

Physician Practice Information Survey

As explained in previous comments to CMS (specifically letters dated 12/29/09 and 08/23/10) we are concerned with the CMS use of the PPIS (Physician Practice Information Survey) for nuclear medicine procedures. We feel that the data provided under the PPIS are questionable and were collected in a non-transparent manner. The results of the PPIS are completely unrepresentative of nuclear medicine practice outside of the hospital setting of care.
Implementation of Technical Correction for Myocardial Perfusion Imaging Codes

On May 7, 2010, CMS issued a technical correction to the 2010 MPFS (Medicare physician fee schedule) practice expense (PE) RVUs (relative value units), resulting in an increase to the technical rates for MPI (myocardial perfusion imaging) codes (CPT codes 78451-78454), retroactive to January 1, 2010. While SNM was obviously supportive of that technical correction, there were no instructions issued for retroactive claims to date. Based on recent appropriation of funds by congress through the Medicare and Medicaid Extenders Act of 2010 (MMEA) signed into law on December 15, 2010, SNM is hopeful that CMS will now have the resources necessary to issue instructions to the Medicare contractors. SNM respectfully requests that CMS expedite the process of instructing contractors on how to reprocess these claims. SNM has been told by its members that some contractors have begun reprocessing claims, utilizing their own systems to rectify the payments owed to practices. SNM urges CMS to move quickly in issuing clarifying instructions. The SNM will quickly alert our members once CMS issues instructions.

RUC Five Year Review- Multi-Specialty Points of Comparison List

CMS has referred CPT code 78815 Positron emission tomography (PET) with concurrently acquired computed tomography (CT) for attenuation correction and anatomical localization imaging; skull base to mid-thigh for RUC (Relative Value Scale Update Committee) review because it is a Multi-specialty Point of Comparison (MPC) code. The SNM actively participates in the AMA (American Medical Association) RUC process and will provide comments as requested. Since the AMA MPC Workgroup is convening in February 2011 regarding codes on the MPC list, the SNM requests that CMS postpone review of CPT code 78815 until after the AMA Workgroup has reviewed the criteria for the MPC code list.


The SNM is disappointed in the CMS decision to reject the recommended values of the expert panel that participated in the 2010 refinement panel review of the SPECT (single photon emission computed tomography) MPI codes (CPT codes 78451-78452). Specifically, we believe the panel members that were selected by the societies to review the interim work RVUs were experienced and highly respected physicians in cardiology, radiology, and nuclear medicine. They had a wealth of knowledge regarding the effort that goes into performing these complex studies. In light of the panel’s vast knowledge in this area, we see no reason why CMS would elect to reject the panel’s recommendations for work RVUs for these specific codes. Also, CMS has not provided any rationale or clarification of its decision in the final rule. Therefore, the SNM respectfully requests that CMS provide an explanation of its decision to not accept the expert panel’s recommended work RVUs for the SPECT MPI codes issued during the 2010 refinement panel review of CPT codes 78451-78452.

Updating Equipment and Supply Price Inputs for Existing Codes

SNM supports CMS’s decision to finalize its proposal to implement an annual review process for the public to request review and modification of practice expense inputs based on changes in equipment and supply input prices for existing codes. We applaud CMS for developing a transparent process within the existing rulemaking structure which allows CMS to issue a determination accepting or rejecting the request for updated inputs. We also appreciate the agency’s acknowledgement of our concerns that any decision to reject a request for updated practice expense inputs for supplies and equipment should be transparent and clearly articulated to the requester receiving the denial. As stated within the final rule, SNM is pleased that CMS intends to lay out its rationale for acceptance, modification, or rejection of all proposals within the final rule which follows the calendar year the request is made. In addition, we support CMS’s policy that this new review process will not replace the agency’s ability to issue technical corrections to the final rule.
where errors in supply and equipment inputs are brought to their attention or discovered within the agency. Overall, we feel this process will aid in achieving more accurate reimbursement and we are pleased CMS has chosen to finalize this policy.

SNM has previously commented (letters dated 08/21/09 and 12/29/09) on practice expense discrepancies (in addition to the MPI corrections that CMS addressed) which are yet to be discussed by CMS in any rule or resolved by a technical correction. Therefore, as part of this new process, or as noted by CMS as part of a technical correction which is within CMS authority, we respectfully request CMS address some obvious errors and issue a technical correction for these necessary and RUC approved omissions in practice expense outlined previously commented upon below:

The SNM identified, as part of the final phase-in of the “bottom up” practice expense, that some equipment inputs were missing from the CMS file for CPT code 78007 Thyroid imaging, with uptake; multiple determinations. It is clear that CMS is missing important equipment including the scintillation camera for imaging. CMS did not acknowledge or reply to our recommendations in this or previous final rules. We request that CMS review the files for CPT code 78007 which continues to be paid less than CPT code 78806 Thyroid imaging, with uptake; single determination. We respectfully request CMS review the file and add back the equipment to correct the PE RVUs effective for claims dates of service January 1, 2010, by issuing a technical correction. (See list below for detailed items missing.) The SNM would be happy to review line items and equipment times with CMS staff, as we did with the MPI codes as requested, by contacting SNM staff.

<table>
<thead>
<tr>
<th>CMS Description</th>
<th>CMS Number</th>
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<tr>
<td>X-ray view box 4 panel</td>
<td>ER067</td>
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<tr>
<td>Cobalt-57 flood source</td>
<td>ER001</td>
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<tr>
<td>Bed</td>
<td>EF002</td>
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<tr>
<td>Film processor</td>
<td>ED025</td>
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<tr>
<td>Computer workstation nuclear</td>
<td>ED019</td>
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<tr>
<td>Gamma camera system, single</td>
<td>ER032</td>
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Other Outstanding Issues Pending Which Require CMS Attention

The SNM commented on two issues in the proposed 2010 rule that were not acknowledged or addressed in this or previous final rules. We respectfully request CMS review and respond to our comments. We are not aware of any time limitations in addressing errors or issues identified and request CMS publicly comment on each issue detailed below:

Pending Issue 1: CMS Assignment for CPT Code 78808

Effective January 1, 2009, the AMA introduced a new CPT code 78808 Injection procedure for radiopharmaceutical localization by non-imaging probe study, intravenous (eg, parathyroid adenoma). CMS has assigned a PC/TC (professional component/technical component) Indicator (5) to CPT code 78808 and therefore, it is not separately payable under HOPPS. We believe that CMS is treating this procedure as they do other injection codes such as CPT code 96365 Intravenous infusion, for therapy, prophylaxis, or diagnosis; initial, up to 1 hour. We suggest that CMS treat this new (in 2009) code like CPT code 38792 Injection procedure; for identification of sentinel node or CPT code 36000 Introduction of needle or intracatheter, vein and assign an indicator (0) or (1). This procedure is a stand-alone procedure when performed by nuclear medicine; that is, the nuclear medicine physician and department do NOT perform any additional service other than those services required for physician supervision and technical
work for ordering, monitoring, and injection of a regulated radioactive pharmaceutical, and completing a formal written report for the record. The CPT code was requested to not only identify those PC and TC services, but to facilitate the reporting and reimbursement for the radiopharmaceutical when performed in the hospital or physician office outpatient setting. **We request CMS treat this procedure the same as other nuclear medicine procedures by assigning CPT code 78808 with an indicator (0) or (1). Additionally, we respectfully request CMS define a PC and TC payment for this new (in 2009) CPT code.**

**Pending Issue 2: Physician Work for CPT Code 78459 Changed In 2003**

In reviewing the history of RVUs for PET (positron emission tomography) procedures we became aware of a change in RVUs implemented by CMS in 2003 for CPT code 78459 *Myocardial imaging; positron emission tomography (PET), metabolic evaluation*. This change was arbitrary with no rationale that we are aware of, and we are also unaware of notification of this change. Typically if CMS does not agree with a RUC approved value, detailed discussion is available. In September of 1994 the RUC approved a physician work value of 1.9, and this was subsequently approved by CMS and published in 1995. A change occurred in 2003 when in the final rule the RVUs suddenly changed to 1.50 with no explanation. **We respectfully request CMS look into this change, and if a technical error, to please correct it for 2010.**

We appreciate the opportunity to comment on this final rule. Should you find it appropriate to do so, the SNM is ready to discuss any of its comments on the above issues. Please contact Susan Bunning, Vice President, Government Affairs, by email at sbunning@snm.org or by phone at 703.326.1182.

Respectfully Submitted,

Gary Dillehay, MD, FACNM, FACR
Chairman, Coding and Reimbursement Committee

Cc: Carol Bazell
    Rebecca Cole
    Ryan Howe
    SNM Coding and Reimbursement Committee

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1 Incident To Codes–This indicator identifies codes that describe services covered incident to a physician's service when they are provided by auxiliary personnel employed by the physician and working under his or her direct personal supervision. Payment may not be made by carriers for these services when they are provided to hospital inpatients or patients in a hospital outpatient department. Modifiers 26 and TC cannot be used with these codes.