

September 17, 2021

VIA ELECTRONIC SUBMISSION

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-1753-P
P.O. Box 8013
Baltimore, MD 21244-1850

Re: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model; Request for Information on Rural Emergency Hospitals (CMS-1753-P)

Dear Administrator Brooks-LaSure:

On behalf of the members of the American Dental Association (ADA), the American Academy of Pediatric Dentistry (AAPD), and the American Association of Oral and Maxillofacial Surgeons (AAOMS), we are writing to provide comments on the hospital outpatient prospective payment system (OPPS) proposed rule for calendar year (CY) 2022 and future years (Proposed Rule).¹ Our comments focus on a Medicare payment issue we have raised with the Centers for Medicare and Medicaid Services (CMS) that significantly impacts patient access to Medicare-covered dental procedures that require the use of a hospital operating room and could also be supported through an ambulatory surgery center (ASC) operating room. Through these comments, we are requesting that CMS work with our organizations to identify a coding solution to current hospital and ASC billing limitations, which have significantly restricted Medicare (and Medicaid) patient access to covered dental outpatient surgeries.

¹ 86 Fed. Reg. 42,018 (Aug. 4, 2021).

Oral Health Disparities and Access to Dental Surgeries

In spite of advances in preventive care and reduction in untreated tooth decay, significant oral health disparities exist, including racial and ethnic disparities and geographic disparities. Medicare and Medicaid beneficiaries with special needs and disabilities and the frail elderly disproportionately suffer from significant dental decay (dental caries). If not treated through dental surgical intervention, this disease can result in emergency department visits and life-threatening infection and hospital admission. Given the time involved for restorative dental surgical procedures, the often-complex equipment and anesthesia required, and the complexity of the services required for high-risk patients, many times dentists need to provide these services in a facility operating room to ensure safe, quality care.

Medicare Coding Limitations

Dental rehabilitation surgical services for complex dental patient cases that require operating room access do not have specific CPT codes. Pursuing a new CPT code(s) has been explored, and is not an option, given that dental surgical services are not physician services and no physician time is allocated to the procedures. As shared in prior regulatory comments from our organizations, presently, coding for these covered dental surgical procedures is limited to an unlisted/miscellaneous code (CPT 41899), and for hospital outpatient payment purposes, has been placed with other miscellaneous codes in an APC (5161) with a national average 2020 APC rate of \$203.64. This reimbursement level is grossly under the appropriate cost for complex dental surgery cases, and significantly less than national average geometric mean cost of the procedure being billed to Medicare. The current APC rate does not in any way recognize or cover a facility's time, expense, professional surgical services, anesthesia services, or equipment costs. For hospitals, the challenge with reimbursement has only been exacerbated by the COVID-19 pandemic since access to elective procedures has been significantly limited, affecting patient access to both medical and dental outpatient surgical procedures. ASCs are also limited in seeing patients for these dental surgeries as there is no recognized Medicare code to bill for dental surgeries in center operating rooms.

A majority of state Medicaid programs look to Medicare payment policy and rates as a benchmark for determining Medicaid policies for dental surgical services, increasing the magnitude of this access problem, particularly for children with special needs.



Calendar Year 2022 HOPPS/ASC
Proposed Rule
Page 3 of 3

Conclusion

In the final CY2021 HOPPS Rule, CMS suggested a HCPCS Level II Code may need to be established to address dental surgical procedures that are otherwise being billed under the miscellaneous code. We would like to work with CMS to explore this coding option further in an effort to improve beneficiary access to covered dental surgical services and in a manner that allows dentists the ability to choose to perform these procedures in hospital outpatient departments or ASCs. Please contact Julie Allen at 202-494-4115 or Julie.allen@powerslaw.com with any questions, and we thank you in advance for your consideration.

Sincerely yours,

A handwritten signature in black ink that reads "Daniel J. Klemmedson DDS, MD".

Daniel J. Klemmedson, DDS, MD
ADA President

A handwritten signature in black ink that reads "K. Jean Beauchamp DDS".

K. Jean Beauchamp, DDS
AAPD President

A handwritten signature in black ink that reads "B.D. Tiner, DDS, MD, FACS".

B.D. Tiner, DDS, MD, FACS
AAOMS President