



August 21, 2006

Mark B. McClellan, M.D., Ph.D.
Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

RE: CMS-1512-PN: Medicare Program Five-Year Review of Work Relative Value Units Under the Physician Fee Schedule and Proposed Changes to the Practice Expense Methodology

Dear Administrator McClellan:

On behalf of the Society for Vascular Ultrasound (“SVU”), thank you for the opportunity to comment on the Proposed Notice (“Proposed Notice”) released by the Centers for Medicare and Medicaid Services (“CMS”) regarding the Medicare Program Five-Year Review of Work Relative Value Units under the Physician Fee Schedule and Proposed Changes to the Practice Expense Methodology.¹ The SVU is a professional society comprised of over 4,100 registered vascular technologists, sonographers, nurses, and physicians. SVU members provide a variety of high-quality ultrasound services to Medicare beneficiaries, but primarily the procedures described by Current Procedural Terminology (“CPT”) codes 92922-93990.

We are generally very supportive of the Proposed Notice, particularly the changes reflecting the transition from the zero work pool, and we commend CMS for its careful and thoughtful work in issuing this Proposed Notice. CMS and its staff continue to act in the best interests of beneficiaries and in a fashion that supports adequate and appropriate access to important health care services. Our organization and its members are very grateful for CMS’ commitment to act in the best interests of beneficiaries and their access needs.

Ultrasound is a critical diagnostic imaging modality that uses sound waves to obtain images of the interior of the body. It offers a highly sensitive, non-invasive, low-cost means of looking into the body of a patient to examine structures such as

¹ 71 Fed. Reg. 37170 (Jun. 29, 2006).

organs, vessels, or a fetus. As a result, both primary care and specialty physicians rely on ultrasound as their chief, and often definitive, diagnostic tool in many instances. Increasingly, physicians employ ultrasound testing as the sole examination prior to surgical intervention, saving not only Medicare dollars but reducing the risks involved in other invasive modalities. With this in mind, we offer these comments from the perspective of vascular ultrasound.

In summary, SVU presents the following comments for consideration regarding the Medicare Program Five-Year Review of Work Relative Value Units (“RVUs”) under the Physician Fee Schedule and Proposed Changes to the Practice Expense Methodology:

- We agree with the adoption of a “bottom-up” methodology for calculating direct costs; utilization of practice expense survey data for the eight identified specialties; and, elimination of the non-physician work pool to price services without physician work RVUs using the standard practice expense methodology.
- SVU also supports the indirect practice expense changes, including the indirect percentage factor, the specialty-specific indirect scaling factors, and the use of the 2005 utilization data in the indirect practice expense RVU calculation.
- SVU strongly supports the proposal to reduce all work RVUs by 10 percent to achieve budget neutrality.

As a fundamental matter, we would be remiss if we did not call your attention to the interplay between the proposed changes and the effects of the Deficit Reduction Act (“DRA”).² Our analysis of the proposed changes demonstrates a significantly positive impact on vascular ultrasound services. We believe that the changes discussed in the Proposed Notice generally work to enhance the accuracy of the physician fee schedule formula. In our view, the physician fee schedule is vastly superior to the hospital outpatient prospective payment system (“OPPS”) as a mechanism to accurately identify costs associated with vascular ultrasound. Because the DRA defaults physician fee schedule reimbursement to the OPSS, Medicare payments for CPT codes 92922-93990 will not, unfortunately, realize the impact of the changes identified in the Proposed Notice. We have been encouraged by the responsiveness of your staff to our concerns about the disproportionate impact of the DRA on vascular ultrasound services. We look forward to continuing to work within the statutory framework to ensure that appropriate access is maintained for these important services.

² Pub. L. No. 109-362.

We thank you in advance for consideration of our comments on the Proposed Notice, which are discussed at greater length below.

I. Proposed Practice Expense (“PE”) Changes

SVU commends CMS for its efforts to more accurately quantify direct and indirect practice expenses. We generally support the proposed changes. In particular, we agree with the adoption of a “bottom-up” methodology for calculating direct costs; utilization of practice expense survey data for the eight specialties discussed; and, elimination of the non-physician work pool to price services without physician work RVUs using the standard practice expense methodology. SVU also supports the indirect practice expense changes, including the indirect percentage factor, the specialty-specific indirect scaling factors, and the use of the 2005 utilization data in the indirect practice expense RVU calculation. Like CMS, we are hopeful that the proposed changes will make the practice expense methodology more transparent, easier to understand, and consistent across procedures.

“Bottom-Up” Methodology for Direct Costs. SVU is pleased that CMS is proposing to abandon the top-down approach to calculate the direct PE RVUs, where the aggregate Clinical Practice Expert Panels (“CPEP”)/Relative Value Update Committee (“RUC”) costs for each specialty are scaled to match the aggregate AMA Socioeconomic Monitoring System (“SMS”) costs. Based on the availability of better data, we support the proposal to adopt a “bottom-up” method of determining the relative direct costs for each service. Similar to CMS, we hope that the proposed “bottom-up” methodology will eliminate the creation of possible anomalous values, such that changes in the PE RVUs would be more intuitive and result in fewer surprises.

Specialty Survey Data. Overall, SVU supports the proposal to use the PE/HR data from a number of surveys in the calculation of the PE RVUs for 2007. It is clear that the new data is superior and more accurate than the SMS data, as evidenced by the high standards demanded for the acceptance of non-SMS data. We are pleased that CMS will no longer continue to rely on the SMS data for these specialties. We do wonder if there should be a simultaneous all-specialty practice expense survey in order to create an equal and level the values used in the calculation.

Non-physician Work Pool. SVU supports the elimination of the non-physician work pool. We endorse the calculation of the PE RVUs for the services currently in the work pool by the same methodology used for all other services. We agree that changes in the work pool’s composition have led to significant fluctuations from year to year in the PE RVUs calculated for the services remaining in the pool. We concur with CMS that the “the continued necessity and equity of treating these technical services outside the PE methodology applied to other services is questionable.”³ Furthermore, we are pleased that this change will also allow CMS to use the refined

³ *Id.* at 37246.

CPEP/RUC data to price the direct costs of individual services, rather than utilizing the pre-1998 charge-based PE RVUs.

Indirect Practice Expense Changes. SVU generally supports the current approach used by CMS in determining indirect practice expenses for ultrasound services. To the extent that the proposed changes enhance the accuracy of the indirect practice expense calculations, we embrace these proposals. Each proposed change regarding the indirect practice expense calculation is discussed in detail below.

Indirect Percentage Factor. We are encouraged by the proposal to allocate indirect expenses by applying a specialty-specific indirect percentage factor to the direct expenses in order to recognize the varying proportion that indirect costs represent of total costs by specialty. When SVU helped to submit revised practice expense data with the Society of Vascular Surgery, there was a disconnect between the practice expenses recorded and the effect of the new data on the calculation. We are hopeful that the proposed changes will smooth the incorporation of new data going forward. As we read the Proposed Notice, the specific indirect percentage factor to apply to the direct costs for the purpose of the indirect allocation would be calculated as the weighted average of the ratio of the indirect to direct costs. We are hopeful that the methodology will not operate in a discriminatory manner because the indirect percentage factor will be based on the survey data for the specialties that perform the code.

Specialty-specific Indirect Scaling Factors. SVU supports the continued use of the specialty-specific indirect scaling factors to incorporate the indirect PE/HR surveys into the methodology. We applaud the proposal to apply them in a simpler manner through the creation of an index. SVU is hopeful that this index will adequately reflect the relationship between each specialty's indirect scaling factor and the overall indirect scaling factor for the entire fee schedule.

Use of the Clinical Labor Costs in the Indirect Allocation. SVU supports the proposal to allocate on the direct costs and the clinical labor costs when the clinical labor portion of the direct PE RVU is greater than the physician work RVU for a particular service. We wish to emphasize, however, that the standards used to accept data should be flexible enough to allow data that has been collected in a reasonable and responsible fashion to be used in the calculation. According to the recent SVU salary survey completed in June 2006, the cost of the industry standard credentialed Registered Vascular Technologist ("RVT") was \$0.62 per minute, a significant increase from the current utilized data which is now several years old. We will be submitting this data to you shortly.

Use of 2005 Utilization Data in the Indirect PE RVU Calculation. SVU agrees that it is now appropriate to use updated utilization data in the calculation of the indirect PEs. We believe that the current PE methodology, using the 1997-2000 utilization data in the calculation of the indirect PE RVUs when the service existed during 1997-2000 or the first year of utilization data if the service did not exist during

that time period, is no longer warranted. Accordingly, we support the proposal to use the 2005 utilization data in the calculation of the 2007 indirect PE RVUs. SVU strongly supports the less frequent updating of utilization data in favor of stability of the PE RVUs.

II. Work RVU Comprehensive Review

SVU commends CMS for its work related to the comprehensive review of work RVUs to assess potentially misvalued services. This is a significant undertaking, and the agency is to be commended. We understand that the proposed revisions are intended to reflect changes in medical practice, coding changes, new data on relative value components, and the addition of new procedures that affect the relative amount of physician work required to perform each service. SVU generally appreciates that the practice of medicine is constantly evolving; however, we believe that E&M service proposals would benefit from further evaluation.

SVU strongly supports the proposal to reduce all work RVUs by 10 percent to achieve budget neutrality. The alternative option, making the budget neutrality adjustment to the fee schedule conversion factor, would require an estimated 5 percent reduction in the conversion factor. We are pleased that CMS dismissed this option because it also would have affected services, like the technical component of ultrasound services, that do not have work RVUs, and were thus not part of the 5-Year Review. SVU supports the proposed change because it would not alter the number of work RVUs assigned to a particular service. We strongly agree that the proposed 10 percent reduction in all work RVUs because it would preserve the integrity of the existing work RVU structure.

III. Conclusion

Thank you again for your consideration of our comments regarding the Medicare Program Five-Year Review of Work Relative Value Units under the Physician Fee Schedule and Proposed Changes to the Practice Expense Methodology. We would like to reiterate the concerns expressed above regarding the effect of the DRA and encourage CMS to work within the statutory framework to favor the most accurate calculation of practice expenses.

In summary, we support CMS' efforts to more accurately quantify direct and indirect practice expenses. We agree with the adoption of a "bottom-up" methodology for calculating direct costs; utilization of practice expense survey data for eight specialties; and, elimination of the non-physician work pool to price services without physician work RVUs using the standard practice expense methodology. SVU also supports the indirect practice expense changes, including the indirect percentage factor, the specialty-specific indirect scaling factors, and the use of the 2005 utilization data in the indirect practice expense RVU calculation. We strongly support the proposal to reduce all work RVUs by 10 percent to achieve budget neutrality.

We appreciate your thorough review of our comments. SVU would be happy to provide additional information on any or all of the aforementioned issues. We look forward to continuing to work with you to improve the health of Medicare beneficiaries and thank you in advance for your thoughtful consideration of our comments.

Respectfully submitted,

William B. Schroedter, BS, RVT, FSVU
Government Relations Chair,
Society for Vascular Ultrasound