

Part B Insider (Multispecialty) Coding Alert

Physician Notes: CMS Mulls Taking Drugs Out Of Update Formula

Massive increases on the way unless changes happen

Remember the 4.5 percent cut you almost had to swallow for 2004? And the equally monstrous reduction that lay in wait for 2005 before Congress came to the rescue?

Those could be peanuts compared to the reductions that could be in store in 2006 unless Congress or the **Centers for Medicare & Medicaid Services** act. The problem: the Sustainable Growth Rate formula that aims to keep physician spending from growing faster than the economy hasn't been changed, and this year's pay hike only means that physician spending will keep exceeding targets by more and more.

Congress would have to act to fix the SGR, but CMS could take one step on its own. The law doesn't require CMS to include the cost of drugs that physicians dispense in the expense calculations for the SGR. Yet CMS included drugs because they met the inclusion criteria, a CMS official explained at the February **Practicing Physicians Advisory Council** meeting, according to a newly released transcript.

Last year, Reps. **Billy Tauzin** (R-LA) and **Michael Bilirakis** (R-FL) suggested to then-CMS Administrator **Tom Scully** that CMS already has the authority to pull drugs out of the SGR, automatically reducing or eliminating the need for spending cuts (See PBI, Vol. 4, No. 21). Judging from the official's comments to PPAC, this idea has some support at CMS.

"Drugs have been growing so rapidly and have contributed to spending being over the target," the official said. They've grown "more rapidly than other physicians' services," he added. "That's an issue that CMS would probably need to go back and look at."

Change Request 2988, dated March 19, reaffirms the national policy that Medicare doesn't cover Current Perception Threshold/ Sensory Nerve Conduction Threshold Tests (sNCTs).

Paul Elliott, president and part-owner of **Doctor's Care Medical Center, Inc.** was convicted March 5 of fraudulent claims to Medicare and Blue Cross of Florida.

Through several Doctor's Care clinics in southeast Florida, prosecutors charged Elliott with submitting claims totaling more than \$320,000 for MRIs requiring a contrast medium when none was allegedly used. He also submitted claims for electromyography tests when less intrusive nerve conduction velocity tests were done instead.

Prosecutors say Elliott may have added an additional 20 years in obstruction of justice charges to the 10 years he faces for health care fraud due to alleged attempts to alter EMG claims on 169 patient records.