

suggests the Commission try to quantify this information by gathering data from social media companies. As noted above, this type of gathering and analyzing advertising content and assessing the impact of that advertising is beyond the scope of these reports.¹⁴

Truth Initiative also notes that one of its studies, which examined vaping influencers on Instagram, found that “most influencer posts promoting vaping products were unambiguous vaping advertisements promoting a specific brand or product,” and the majority of them did not disclose the influencer’s brand relationship.¹⁵ Accordingly, Truth Initiative also urges the Commission to take enforcement actions against such social media posts on the basis that the influencers’ failure to disclose their brand relationship constitutes a violation of the FTC’s Endorsement Guides (16 CFR part 255). Because any such enforcement actions would be independent from the Commission’s Cigarette Orders and Smokeless Tobacco Orders, this recommendation is not germane to this clearance request.

Accordingly, for the foregoing reasons, the Commission declines to make any adjustments to its prior burden estimates or to modify its initial proposal.

C. Overview of Information Collection

Title: FTC Cigarette and Smokeless Tobacco Data Collection.

OMB Control Number: 3084–0134.

Type of Review: Revision and extension of currently approved collection.

Likely Respondents: Parent companies of the largest cigarette companies and smokeless tobacco companies.

Estimated Annual Burden Hours: 3,540 hours.

Estimated Annual Labor Costs: \$407,100.

Estimated Annual Non-Labor Costs: \$0.

Abstract: Pursuant to section 6(b) of the FTC Act, 15 U.S.C. 46(b), the Commission collects information on

Pediatrics 878 (July 11, 2022), available at <https://doi.org/10.1001/jamapediatrics.2022.2223>; Daniel K. Cortese et al., *Smoking Selfies: Using Instagram to Explore Young Women’s Smoking Behaviors*, *Social Media + Society* 4(3) (Aug. 7, 2018), available at <https://doi.org/10.1177/205630511879076>.

¹⁴ Truth Initiative recognizes that gathering information from social media companies is beyond the scope of these information requests. See *Truth Initiative Comment*, *supra* note 1.

¹⁵ *Truth Initiative Comment*, *supra* note 1 (citing Nathan A. Silver et al., *Examining Influencer Compliance with Advertising Regulations in Branded Vaping Content on Instagram*, 10 *Front. Public Health* (Jan. 9, 2023), available at <https://doi.org/10.3389/fpubh.2022.1001115>).

sales and/or marketing of the subject products from manufacturers of cigarettes and smokeless tobacco products. The Commission then compiles and publishes the data in two periodic reports.

The Commission’s section 6(b) Orders seek data regarding, among other things: (1) the cigarette or smokeless tobacco sales of industry members; (2) how much industry members spend advertising and promoting their cigarette or smokeless tobacco products, and the specific amounts spent in each of a number of specified expenditure categories; (3) whether industry members are involved in the appearance of their cigarette or smokeless tobacco products or brand imagery in television shows, motion pictures, on the internet, or on social media; (4) how much industry members spend on advertising intended to reduce youth cigarette or smokeless tobacco usage; (5) the events, if any, during which industry members’ cigarette or smokeless tobacco brands are televised; and (6) how much industry members spend on public entertainment events promoting their companies but not specific cigarette or smokeless tobacco products or such products generally. The information requests to cigarette companies also seek information pertaining to the annual sales, giveaways, and marketing expenditures for electronic devices used to heat non-combusted cigarette products, and the information requests to smokeless tobacco companies also seek information pertaining to the annual unit and dollar sales of tobacco-free nicotine lozenges and pouches. Once the Commission’s clearance request has been approved by OMB, the Commission’s information requests to smokeless tobacco companies will also seek information concerning sales and advertising and promotional expenditures for tobacco-free nicotine lozenges and pouches, including the specific amounts spent in each of a number of specified expenditure categories.

D. Request for Comment

Pursuant to OMB regulations, 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, as amended, 44 U.S.C. 3501 *et seq.* (“PRA”), the FTC is providing this second opportunity for public comment while seeking OMB approval to renew and modify the pre-existing clearance as described above. For more details about the information collection and the basis for the calculations summarized above, see 89 FR 20967.

Your comment—including your name and your state—will be placed on the

public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number; date of birth; driver’s license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential”—as provided in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1826–N]

Medicare Program; Announcement of the Advisory Panel on Hospital Outpatient Payment Meeting—August 26–27, 2024

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This meeting notice announces the virtual meeting of the Advisory Panel on Hospital Outpatient Payment (the Panel) on Monday, August 26, 2024 and Tuesday, August 27, 2024. The purpose of the Panel is to advise the Secretary on the clinical integrity of the Ambulatory Payment Classification groups and their associated weights, which are major elements of the Medicare Hospital Outpatient Prospective Payment System and the Ambulatory Surgical Center payment system, and supervision of hospital outpatient therapeutic services.

DATES:

Virtual Meeting Dates: Monday, August 26, 2024 and Tuesday, August

27, 2024, from 9:30 a.m. to 5:00 p.m. Eastern Daylight Time (EDT) each day. The times listed in this notice are EDT and are approximate times. Consequently, the meetings may last longer or be shorter than the times listed in this notice but will not begin before the posted time.

Deadline for presentations and comments: Presentations or comment letters must be received by 5:00 p.m. EDT on Friday, August 02, 2024. Presentations or comment letters must be submitted through the “Hospital Outpatient Payment (HOP) Panel Meeting Presentation & Comment Letters” module. To access the module, go to <https://mearis.cms.gov> to register, log in, and submit your presentation or comment letter. CMS can only accept HOP Panel Meeting presentations and comment letters that are submitted via MEARIS™. Please note that with the submissions in MEARIS™, CMS no longer requires the completion or submission of form CMS–20017 as part of the presentation or comment letter package. Therefore, submitters do not need to complete this form.

Presentations and comment letters that are not received by the due date and time will be considered late or incomplete and will not be included on the agenda. Presentations and comment letters may not be revised once they are submitted. If a presentation or comment letter requires changes, a new submittal must be submitted by August 02, 2024.

Please see additional information regarding the submission of section 508 compliant presentation and comment letter materials in section “III. Presentations and Comment Letters” of this notice.

ADDRESSES:

Virtual meeting location and webinar: The August 26–27, 2024 meeting will be held virtually via Zoom only. Closed captioning will be available on the webinar. Webinar information will appear on the final meeting agenda, which will be posted on our website when available at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>.

Websites: For additional information on the Panel, including the Panel charter, and updates to the Panel’s activities, we refer readers to view our website at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>. Information about the Panel and its membership in the Federal Advisory Committee Act database is located at: <https://www.facadatabase.gov>.

Virtual meeting registration: While there is no meeting registration, presenters must be identified and included as part of the MEARIS™ presentation submission process by the presentation and comment letter deadline specified in the **DATES** section of this notice. We note that no advanced registration is required for participants who plan to view the Panel meeting via Zoom webinar or who wish to make a public comment during the meeting.

FOR FURTHER INFORMATION CONTACT: Nicole Marcos, Designated Federal Official at (202) 690–7484 or via email at: APCPanel@cms.hhs.gov.

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and is allowed by section 222 of the Public Health Service Act to consult with an expert outside panel, such as the Advisory Panel on Hospital Outpatient Payment (the Panel), regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Panel is governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. appendix 2), to set forth standards for the formation and use of advisory panels. We consider the technical advice provided by the Panel as we prepare the final rule and the following calendar year’s proposed rule to update the Hospital Outpatient Prospective Payment System (OPPS).

II. Virtual Meeting Agenda

The agenda for the August 26 and 27, 2024 virtual Panel meeting will provide for discussion and comment on the following topics as designated in the Panel’s Charter:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Reconfiguring APCs.
- Evaluating APC group weights.
- Reviewing packaging costs of items and services, including drugs and devices, into procedures and services, including the methodology for packaging and the impact of packaging the cost of those items and services on APC group structure and payment.
- Removing procedures from the inpatient only list for payment under the OPPS.
- Using claims and cost report data for the Centers for Medicare & Medicaid

Services’ (CMS) determination of APC group costs.

- Addressing other technical issues concerning APC group structure.
- Evaluating the required level of supervision for hospital outpatient services.
- OPPS APC rates for covered Ambulatory Surgical Center (ASC) procedures.

The agenda will be posted on our website at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups> approximately 1 week before the meeting.

Virtual Meeting Information Updates: The actual meeting hours and days will be posted in the agenda. As information and updates regarding this webinar and listen-only teleconference, including the agenda, become available, they will be posted to our website at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups>.

III. Presentations and Comment Letters

The subject matter of any presentation and comment letter must be within the scope of the Panel as designated in the Charter. Any presentations or comments outside of the scope of the Panel will be returned or requested for amendment. Unrelated topics include but are not limited to: the conversion factor; charge compression; revisions to the cost report; pass-through payments; correct coding; new technology applications (including supporting information/documentation); provider payment adjustments; supervision of hospital outpatient diagnostic services; and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services. Presentations or comment letters that address OPPS APC rates as they relate to covered ASC procedures are within the scope of the Panel; however, ASC payment rates, ASC payment indicators, the ASC covered procedures list, or other ASC payment system matters will be considered out of scope. The Panel may use data collected or developed by entities and organizations other than the Department of Health and Human Services or CMS in conducting its review. We recommend organizations submit data for CMS staff and the Panel’s review. All presentations are limited to 5 minutes, regardless of the number of individuals or organizations represented by a single presentation.

Presenters may use their 5 minutes to represent either one or more agenda items.

Section 508 Compliance

For this meeting, we are aiming to have all presentations and comment letters available on our website. Materials on our website must be section 508 compliant to ensure access to Federal employees and members of the public with and without disabilities. Presenters and commenters should reference the guidance on making documents section 508 compliant as they draft their submissions, and, whenever possible, submit their presentations and comment letters in a 508 compliant form. The section 508 guidance is available at: <https://www.cms.gov/research-statistics-data-and-systems/cms-information-technology/section508>. Presentations and comment letters should limit the use of graphs or pictures. Any use of these visual depictions must include alternate text that verbally describes what these visuals convey.

We will review presentations and comment letters for section 508 compliance and place compliant materials on our website. As resources permit, we will also convert non-compliant submissions to section 508-compliant forms and offer assistance to submitters who are making their submissions section 508-compliant. All section 508-compliant presentations and comment letters will be made available on the CMS website. If difficulties are encountered accessing the materials, please contact the Designated Federal Official in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

IV. Virtual Formal Presentations

In addition to formal presentations (limited to 5 minutes total per presentation), there will be an opportunity during the meeting for public comments as time permits (limited to 1 minute for each individual and a total of 3 minutes per organization).

V. Panel Recommendations and Discussions

The Panel's recommendations at any Panel meeting generally are not final until they have been reviewed and approved by the Panel on the last day of the meeting, prior to the final adjournment. These recommendations will be posted to our website after the meeting.

VI. Membership Appointments to the Advisory Panel on Hospital Outpatient Payment

The Panel Charter provides that the Panel shall meet up to 3 times annually. We consider the technical advice provided by the Panel as we prepare the update to the calendar year OPPTS proposed and final rules. The Panel shall consist of a chair and up to 15 members who are full-time employees of hospitals, hospital systems, or other Medicare providers that are subject to the OPPTS. The Panel may also include a representative of a provider with ASC expertise, who advises CMS only on OPPTS APC rates, as appropriate, impacting ASC covered procedures within the context and purview of the Panel's scope. The Secretary or a designee selects the Panel membership based upon either self-nominations or nominations submitted by Medicare providers and other interested organizations of candidates determined to have the required expertise. For supervision deliberations, the Panel may include members that represent the interests of critical access hospitals, who advise CMS only regarding the level of supervision for hospital outpatient therapeutic services. New appointments are made in a manner that ensures a balanced membership under the Federal Advisory Committee Act guidelines. The Secretary rechartered the Panel in 2022 for a 2-year period effective through November 20, 2024. The current charter is available on the CMS website at: <https://www.cms.gov/files/document/2022-hop-panel-charter.pdf>. New appointments are made in a manner that ensures a balanced membership under the Federal Advisory Committee Act guidelines. The Panel consists of the following current members and a Chair:

- E.L. Hambrick, M.D., J.D., CMS Chairperson.
- Becky Bean, BS, MHA/MBA, PharmD.
- Thomas Capco, BSRT, RRT, CPFT.
- Nancy Dawson, MD, FACP.
- Blake Dirksen, MS, DABR.
- Brandon Fazio, BS.
- Rahul Seth, DO, FASCO.
- Wendi Smith Lloyd, CPC, COC, CPMA, COSC.
- William Tettelbach, MD, FACP, FIDSA, FUHM, MAPWCA, CWSP.

Request and Submission of the Panel Nominations

The Request for Nominations to the Advisory Panel on Hospital Outpatient Payment notice (87 FR 68499) provided

for nominations to be accepted through February 13, 2023 or after that date at CMS's discretion.

As a result of that notice, we are announcing 3 new members to the Panel. These 3 new Panel member appointments will assure that we continue to have a Chair and up to 15 members available to attend our scheduled meeting.

New Appointments to the Panel

New members of the Panel and their terms are as follows:

- Jennifer Artigue, RHIT, CCS. Term: May 13, 2024–May 12, 2028.
- Scott Manaker, MD, Ph.D. Term: July 20, 2024–July 19, 2028.
- Caroline Zeller, DDS, MPH. Term: May 13, 2024–May 12, 2028.

We currently accept nominations on a continuous basis to fill upcoming panel vacancies. We encourage additional submissions. Any interested person or organization may nominate qualified individuals. Self-nominations from qualified individuals are also accepted. Nominations must be submitted through the "Hospital Outpatient Payment (HOP) Panel Member Nomination" module on MEARIS™. To access the module, visit <https://mearis.cms.gov> to register, log in, and submit your nomination. We can only accept HOP Panel Member nominations that are submitted via MEARIS™.

VII. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2024-15393 Filed 7-12-24; 8:45 am]

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