AAOS
American Association of Orthopaedic Surgeons

May 26, 2021

Mark Synovec, MD
Chair, CPT Editorial Panel
American Medical Association
330 N. Wabash Avenue, Suite 39300
Chicago, IL 60611

**Re: AMA March 2021 Recommendations for Evaluation and Management Claims for 2021**

Dear Dr. Synovec:

On behalf of over 34,000 orthopaedic surgeons and residents represented by the American Association of Orthopaedic Surgeons (AAOS), we are writing to share our concerns with the Evaluation and Management (E/M) guideline changes published on March 9, 2021.

**Data credit for ordering a test**

The guidelines indicate that "*the ordering and actual performance and/or interpretation of diagnostic tests/studies during a patient encounter are not included in determining the levels of E/M services when the professional interpretation of those tests/studies is reported separately by the physician or other qualified health care professional reporting the E/M service*".

The professional interpretation of a test/study does not include the medical decision making (MDM) to order the test/study. Therefore, it seems illogical that because a physician will separately report the professional interpretation of a test/study, they are prohibited from including the cognitive effort to decide to order a test/study in the MDM that is used to determine the level of an E/M service.

We agree that if the physician will separately report the professional interpretation of a diagnostic test/study, they cannot use the independent interpretation of the same test/study as MDM when determining the level of an E/M service – this is clearly duplication or overlap. However, no such duplication exists with the decision to order a test/study and the professional interpretation of the same test/study. Therefore, we believe that the physician should be allowed to use the decision to order a test/study in the MDM to determine the level of E/M service, even if they will separately report the professional interpretation.

**Retroactive application of the new guideline**

While we appreciate the AMA's effort to provide technical corrections to the guidelines, making the corrections effective retroactively to January 1, 2021 seems problematic. If the goal is to have each physician retroactively review E/M records dating back to January 1, 2021 and revise and resubmit charges due to any change in the level of E/M based upon these changes, this represents an undue administrative burden. If that is not the goal, the intent should be made clear by aligning the effective date with the date of notice.

**Multiple problems addressed at the same visit**

We would also like to comment on an issue that has been present prior to the March 9, 2021 update – multiple problems addressed at the same visit. In the current framework, the addition of two or more problems to increase the complexity of medical decision making is limited to two scenarios:

1. One self-limited or minor problem is considered "minimal" and supports level-2; two or more self-limited or minor problems increases to "low" and supports level-3.
2. One stable chronic illness is considered "low" and supports level-3; two or more chronic illnesses increases this to "moderate" and supports level-3.

There are several other scenarios where the additive effect of two or more of the same problem types should increase the level of MDM; these include but are not limited to the following:

1. One acute uncomplicated injury is considered "low" and supports level-3; perhaps two or more acute uncomplicated injuries should be considered "moderate" and support level-4.
2. One acute complicated injury is considered "moderate" and supports level-4; perhaps two acute complicated injuries should be considered "high" and support level-5.

There will also be situations where the physician is assessing two different problems with different levels of complexity. The physician might evaluate one acute uncomplicated injury and one acute complicated injury. There are clearly numerous combinations that are possible. We recommend that MDM recognize the additive nature of two or more problems that are all managed at the same visit. Multiple problems often have more than additive effects because of their interactions, both direct and indirect. MDM should address multiple problems in a more comprehensive, systematic and consistent manner.

Thank you for your time and attention to the concerns of the members of the American Association of Orthopaedic Surgeons (AAOS). We look forward to working closely with the AMA on further improving the payment system, and to enhancing the care of musculoskeletal patients in the United States. Should you have questions on any of the above comments, please do not hesitate to contact Graham Newson, Director, AAOS Office of Government Relations at newson@aaos.org.

Sincerely,

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President, AAOS

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