

## **ASCO POSITION ON MEDICARE PAYMENTS FOR DRUGS AND DRUG ADMINISTRATION SERVICES**

Medicare payment policy must be designed to assure that cancer patients' access to quality care and services is preserved. ASCO continues to support restructuring the Medicare payment methods for drugs and drug administration services to more closely align the payment amounts with the costs involved. ASCO therefore supports the general aims of the restructuring enacted in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 ("the MMA"). There are serious problems with specific provisions of the MMA, however, that must be addressed.

For 2004, the MMA has resulted in potential problems of patient access because the payment amounts for some drugs are lower than the prices at which physicians can purchase them. Although the Centers for Medicare & Medicaid Services ("CMS") has the authority to increase the payment amounts in such circumstances, CMS takes the position that it cannot legally do so until April 1, 2004. The MMA should not have been drafted with this flawed exceptions process, and ASCO will urge Congress to enact legislation immediately that would permit earlier revisions in the payment amounts. ASCO will also ask CMS to increase the payment amounts as soon as it legally can to levels that will permit all physicians to purchase drugs without incurring losses.

For 2005 and later years, the MMA will drastically reduce the payment amounts for drugs and drug administration services compared to the 2004 amounts. In addition, it appears likely that the payment methodology for drugs (106% of the manufacturer's average sales price) will result in payment amounts for many drugs that are lower than the prices at which physicians can purchase them, yet there is no mechanism in the MMA for adjustments in such circumstances. The MMA's payment amounts for 2005 and later years are therefore unacceptable and have the potential to create substantial impairment of patient access to cancer treatment.

The radical payment changes in 2005 are particularly unjustifiable because studies required by the MMA to assess the payment changes will not have been completed by that time. The study by the Medicare Payment Advisory Commission on the changes as they affect oncologists is due January 1, 2006, and as they affect other specialties, a year later. The study by the Secretary of Health and Human Services on the ASP methodology is also due January 1, 2006. The Inspector General's separate study on the ASP methodology is due October 1, 2005. In addition, the MMA's alternative method for drug procurement through contractors does not become available until 2006, which therefore allows oncologists no alternative to avoid inadequate drug payment amounts in 2005.

Therefore, it is ASCO's position that Congress should enact legislation in 2004 that would:

- Create an exceptions or similar process under which CMS would be required to ensure that the payment amounts for drugs in 2005 and later years are sufficient to cover the costs that physicians incur in purchasing the drugs
- Revise the MMA's transitional adjustment payment for drug administration services, which is 32% in 2004, to an amount that will maintain the net revenue available to physicians from drugs and drug administration services in 2005 and 2006 at the same level as in 2004.

ASCO will be working with Congress, CMS and affected physician and patient groups to achieve this outcome