# Washington Consult

## House Committees Hold Hearings on Medicare Payments, Quality Care, and Pay for Performance

In July, two subcommittees in the House of Representatives—the Ways & Means Subcommittee on Health, and the Energy & Commerce Subcommittee on Health—held hearings to address issues important to the cancer community. ASCO testified at both of these hearings to bring forward the concerns cancer care providers have regarding their ability to continue to provide quality care for people with cancer.

At both hearings, ASCO encouraged the members of each Committee to support the following initiatives:

- Allow for appropriate reimbursement for chemotherapy drugs through Medicare
- Support a multiyear extension of the Centers for Medicare & Medicaid Services (CMS) 2006 oncology demonstration project
- Reduce or eliminate the patient burden of coinsurance for Part B drugs
- Improve reimbursement for patient care services, specifically through development and use of a cancer "treatment summary plan"

"Many ASCO members are experiencing a shortfall in Medicare payments for some drugs they use to treat their patients," said Joseph S. Bailes, MD, ASCO's Interim Executive Vice President and CEO, who testified on behalf of ASCO at the Ways & Means Subcommittee hearing. "That is why ASCO is working with the cancer community and Congress to improve the system to ensure that people living with cancer have access to life-saving cancer care treatments."

One key recommendation that ASCO made to both Committees was to support a multiyear extension of the 2006 CMS oncology demonstration project. ASCO told the Committees that the oncology demonstration projects administered by CMS in 2005 and 2006 provided resources that enabled oncology practices to continue to provide high-quality cancer care to their patients. ASCO urged the Committees to support a multiyear extension of the demonstration project, so enough data to support well-informed quality enhancement initiatives could be collected.

ASCO provided both oral and written testimony at the hearings. Presented here are key elements from ASCO's testimony from both hearings.

### Ways & Means Hearing on Medicare Reimbursement of Physician-Administered Drugs: Testimony of Joseph S. Bailes, MD (July 13, 2006)

The House Ways & Means Subcommittee on Health hearing on July 13 focused on implementation of Medicare's revised payment methodology for cancer drug reimbursement and the effects of this new payment system on cancer care. ASCO testified at the hearing about concerns related to the continuing effects the Medicare Modernization Act of 2003 (MMA) is having on oncology practices.

ASCO's chief concerns are the shortcomings in reimbursement not only for chemotherapy drugs, but also for patient care services, and the effect this has on patient access to quality cancer treatment.

ASCO stated that the current reimbursement system of 106% of the average sales price (ASP) of the chemotherapy treatment does not always cover the generally available price to practices for the drug. To avoid the potential access problems created by this shortfall in Medicare payment, ASCO supports legislation that would ensure that the Medicare reimbursement amount is sufficient to cover what physicians have to pay to obtain drugs.

ASCO highlighted legislation introduced by Representative Ralph Hall (R-Texas), H.R. 5179, which would create a floor for Medicare payment to ensure that it is not lower than the widely available market price. The current Medicare statute allows CMS to lower the payment rate when it exceeds the widely available market price, but it does not permit raising the payment rate when it is less than the widely available market price. This inconsistency should be rectified immediately, ASCO testified.

H.R. 5179 also would exclude prompt pay discounts to wholesalers and distributors from the ASP calculation, ASCO stated. Including prompt pay discounts received by wholesalers and distributors distorts the calculation and contributes to situations in which individual physicians are unable to obtain some chemotherapy drugs at or below the Medicare payment rate.

The MMA made some adjustments to payment for services, but these were not sufficient to cover the cost of providing the full range of services required for comprehensive cancer care,

ASCO testified. Further legislative changes beyond those in MMA are required to recognize services not currently reimbursed by Medicare. In addition, CMS must revise the manner in which it is calculating the practice expenses associated with particular services.

ASCO also supported H.R. 5465, legislation introduced earlier this year by Representatives Lois Capps (D-California) and Tom Davis (R-Virginia), to establish a new Medicare service for comprehensive cancer care planning and coordination at the time of diagnosis, at the end of active treatment, or when there is a change in the cancer survivor's condition or care. ASCO outlined that by paying oncologists for comprehensive care planning, the quality of cancer care will be enhanced, patient satisfaction will be boosted, and cancer care resources will be more efficiently utilized.

At the hearing, ASCO expressed continued concern about the CMS methodology for determining practice expense relative values consistently with MMA. ASCO cited reports by a CMS contractor, the Lewin Group, and the Government Accountability Office, which concluded that the CMS methodology of allocating practice expense relative values for "indirect" costs is biased against services that do not involve physician work. Drug administration services, which are considered to involve little or no physician work, are adversely affected by the current methodology. CMS, however, has not revised its method of calculating practice expense relative values to remedy this bias, the reports stated.

Concern about the calculation of practice expense relative values has been heightened by the proposal published by CMS on June 29, ASCO stated. The MMA required CMS to use the supplemental survey of oncologists' expenses, sponsored by ASCO to determine practice expense relative values. However, under CMS's proposal, surveys would no longer be used to determine the practice expense relative values attributed to the "direct" costs of clinical staff, supplies, and significant equipment. In addition, CMS is proposing to change the method of determining the practice expense relative values attributable to the "indirect" costs of administrative staff and overhead. ASCO stated its belief that CMS does not have discretion to discount this survey data in determining practice expense relative values for drug administration services performed by oncologists.

ASCO has just begun its analysis of CMS's proposed changes, but is concerned about proposed decreases in payments for many drug administration services. For example, the practice expense relative value units assigned to the key service of a chemotherapy infusion (first hour) would decline by 13%. It is important that the CMS methodology result in appropriate payment amounts for drug administration services that are adequate to support the services and consistent with the intent of Congress in MMA, ASCO stated. ASCO urged the Committee to review carefully the CMS proposal and offer guidance to the agency regarding alternative approaches that will sustain necessary cancer care services.

ASCO also expressed concern about the MMA-enacted Competitive Acquisition Program (CAP), under which physicians can obtain drugs from a Medicare contractor for specific patients, and the contractor is responsible for billing the Medicare program and the patient. ASCO informed the Committee that although there may be a legitimate role for the CAP, as currently configured there are significant programmatic issues that CMS needs to address.

A primary concern is the fact that CAP vendors may terminate access to drugs for patients who do not pay their coinsurance within 45 days—an unexpected and unwelcome burden for cancer patients, the Society stated. Oncologists in practice must frequently deal with unpaid coinsurance, sometimes absorbing the loss, sometimes extending payment terms, and sometimes referring patients to charitable organizations. All these options are open to CAP vendors, and they should not be absolved from those options any more than oncologists, ASCO told the Committee.

Other issues of concern include the rule that a physician may not transport CAP drugs from one practice location to another. This rule can interfere with the operation of practices with multiple offices. In addition, the CAP does not reimburse practices for the administrative costs associated with the program. The CAP rules also establish a vague negotiation process for the physician and the CAP vendor to work out the disposition of unused drug. ASCO maintained that more practices might enroll in the CAP if this process were clearer.

Representatives from CMS and other government groups, as well as provider and patient groups, also testified at this hearing.

## Energy & Commerce Hearing on Medicare Physician Payment: How to Build a Payment System that Provides Quality, Efficient Care for Medicare Beneficiaries Testimony of Deborah Schrag, MD (July 27, 2006)

At a House Energy & Commerce Health Subcommittee hearing held July 27, ASCO testified on issues related to quality cancer care initiatives and pay-for-performance programs. At the hearing, ASCO overviewed its quality cancer care initiatives, including efforts to develop a cancer "treatment summary" to capture in a succinct format the patient's treatment history and plan for follow-up care. ASCO also urged the subcommittee to support extension of CMS's 2006 oncology demonstration project.

At the hearing, ASCO stated that cancer researchers have made enormous strides in discovering the basic biological

mechanisms that cause cancer. The Society reviewed its initiatives to define and measure the quality of cancer care to develop strategies for improving health outcomes.

ASCO reviewed the findings of the 1999 Institute of Medicine (IOM) report, "Ensuring Quality Cancer Care," which raised concern with ASCO members and leaders. The report concluded that some cancer patients receive less than optimal care, but noted the lack of data available to truly appreciate the extent of the problem. The IOM report called for research to better assess quality of cancer care in the United States.

ASCO outlined its multiyear, multi–million dollar study, the National Initiative on Cancer Care Quality (NICCQ), which ought to quantify the degree to which the actual practice of cancer care matched evidence-based guidelines for care. With support from the Susan G. Komen Breast Cancer Foundation, and research expertise from the Harvard School of Public Health and the Rand Corporation, the NICCQ study evaluated the quality of care received by breast and colorectal cancer patients in five metropolitan areas across the United States.

The study, based on data from 1,800 medical records and patient surveys, found that adherence to evidence-based medicine was higher than previously reported—86% of breast cancer and 78% of colon cancer patients received care that adhered to practice guidelines. The study identified some specific areas in which the quality of care could be strengthened, including better documentation of care and optimizing chemotherapy dosing. In response, ASCO has developed a variety of office practice tools and systems to help its members address these issues. Although overall NICCQ results were reassuring, the study highlighted just how complex cancer care delivery is, as well as the wide variation in the extent of documentation, particularly for chemotherapy treatment.

NICCQ demonstrated that without clear documentation, it is difficult to assess whether patients receive appropriate chemotherapy. Further, in this highly mobile society, it is critical for cancer patients, and all their providers, to understand the plan for treatment and the patient's experience in carrying out that plan.

The NICCQ study and other quality of care research highlights the value of the chemotherapy "treatment summary" as an effective quality improvement tool, ASCO stated in its testimony. The treatment summary will provide a brief synopsis of a patient's chemotherapy treatment history and the plan for follow-up care. The treatment summary is intended to improve communication of crucial treatment information between oncologists and their patients and between oncologists and other physicians. ASCO has developed a template for a treatment summary and care plan, which would improve documentation so that the information needed to assess the quality of care is more readily accessible. The additional burden of treatment summary documentation on busy cancer physicians should be appropriately recognized, ASCO stated.

ASCO also reviewed the work it has undertaken with the National Comprehensive Cancer Network (NCCN) to build upon and update 61 cancer quality measures created as part of the NICCQ study. ASCO and NCCN collaborated at the beginning of 2006 to select a subset of NICCQ measures that are key indicators of oncology treatment and are directly supported by NCCN guideline recommendations. Content and methodology experts produced several breast cancer and colorectal cancer quality measures that are appropriate for diverse uses—including accountability for the quality of care. The ASCO/NCCN Quality Measures will be published on both organizations' Web sites later this summer.

ASCO maintained that it is imperative that quality measures undergo thorough and careful review as exemplified by the ASCO-NCCN process, before such measures are used to judge performance. ASCO also noted that rapidly evolving cancer treatment standards require quality measures to be updated and monitored for ongoing relevance, and ASCO has committed the resources necessary for ongoing update and review of its quality measures.

ASCO also reviewed many quality-related projects with the common goal of improving patient care. The Quality Oncology Practice Initiative (QOPI) is a quality-improvement initiative offering practices tools and resources for self-assessment, peer comparison, and improvement. QOPI was launched as a pilot in 2002, and now almost 50 practices across the country, representing more than 1,000 oncologists, are enrolled in the program.

The QOPI quality measures are developed and updated by practicing oncologists and measurement experts. Practices participating in QOPI abstract their medical records twice yearly and enter deidentified data for each QOPI measure. Each practice receives reports that enable them to compare their performance with that of their peers. This process of self-scrutiny and evaluation enables participating practices to learn from one another and to identify strengths and weaknesses in their care delivery.

In the first round of QOPI data collection for 2006, more than 9,000 medical records were submitted for analysis. As QOPI participation grows, so does ASCO's database, making the program increasingly valuable for comparison and benchmarking. The American Board of Internal Medicine has recognized QOPI as the only oncology-specific measurement program approved for use in meeting its new practice performance requirements for maintaining board certification.

All of ASCO's quality initiatives to improve cancer care promote the practice of evidence-based medicine. For the last 10 years, ASCO's Health Services Committee has developed evidence-based guidelines that are regarded as the most rigorous in medicine.

ASCO's guidelines focus on treatments or procedures that have an important impact on patient outcomes, represent areas of clinical uncertainty or controversy, or are used inconsistently in practice. ASCO develops office practice tools to make these guidelines relevant for day-to-day practice and facilitate adherence to guideline recommendations. ASCO also creates patient guides for each guideline, so patients can be empowered partners in medical decision making.

ASCO also reviewed its quality-oriented agenda in the public policy arena. One forum for policy development on quality issues is the Cancer Quality Alliance, jointly created by ASCO and the National Coalition for Cancer Survivorship. This alliance is the first specialty-specific effort of its kind. It has broad public- and private-sector membership across the cancer community, including CMS officials and representatives of private payers, both of whom have an obvious interest in a robust program of quality cancer care. Other participants include oncology nurses, accrediting bodies, patient advocacy and medical professional organizations, cancer centers, community practices, the IOM, the National Quality Forum, and the NCCN. The Cancer Quality Alliance provides a forum for the various stakeholders in cancer care quality to discuss joint initiatives and develop coordinated strategies.

ASCO also reviewed steps that CMS has taken to monitor the quality of care delivered to its beneficiaries through its 2006 oncology demonstration project. This demonstration, which offers a foundation for future pay-for-performance programs in Medicare, is structured to determine whether and how oncology providers follow well-established evidence-based guidelines developed by ASCO and NCCN.

ASCO stressed to the Committee that the most useful information will be obtained only by accumulating data over multiple years. The demonstration project provides CMS with a mechanism for collecting clinical data through the claims system—data that are absolutely critical to oncologists making treatment decisions for cancer patients and to anyone interested in assessing the appropriateness of cancer care. For the first time, CMS has captured the basic information on cancer stage and other disease characteristics that provide both important new insight on patterns of care and a foundation for recognition of quality. Such assessment requires multiyear longitudinal data if it is to be a useful guide to future performance measurements, ASCO stated. At the hearing, ASCO urged the Committee to support an extension of the current demonstration project for enough time to enable meaningful analysis as policy moves toward a pay-for-performance model.

ASCO is well positioned to provide the expertise, tools, measures, and other resources necessary to implement a thoughtful pay-for-performance program that focuses on quality care. ASCO urged the Committee to proceed carefully with any pay-for-performance programs.

Representatives from CMS and other physician provider groups also testified at this hearing.

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### QOPI Remains Open to All ASCO Members

Registration remains open for practices to enroll in QOPI. Practices are asked to commit to at least two rounds of data collection, and to cover the time and cost for their staff to be trained online in abstracting techniques and then carry out the abstracting. A primary physician contact must be designated and agree to disseminate the data reports. Each participating practice will receive a report detailing the practice's performance on the QOPI quality measures and providing aggregate data for comparison. For more information about criteria and enrollment, go to www.asco.org/QOPI.