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September 04, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1809-P
P.O. Box 8010
Baltimore, MD 21244-8010

Submitted online via www.regulations.gov

Re: File Code CMS-1809-P Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Proposed Rule

Dear Administrator Brooks-LaSure:

The American Association of Oral and Maxillofacial Surgeons (AAOMS) represents more than 9,000 oral and maxillofacial surgeons (OMSs) in the United States. AAOMS appreciates the opportunity to comment on the proposed 2025 revisions to the Hospital Outpatient Prospective Payment (OPPS) and Ambulatory Surgical Center (ASC) Payment Systems rule.

AAOMS commends CMS for its efforts to improve access to high-quality and affordable healthcare, especially through proposals aimed at ensuring Medicare beneficiaries have access to medically necessary and essential dental services in hospitals and ASCs. We are especially encouraged by the measures designed to enhance the availability of these critical services.

We also appreciate CMS for acknowledging and thoughtfully considering the comments and recommendations submitted by AAOMS. The agency's responsiveness demonstrates a commitment to engaging with the healthcare community and ensuring that policies are informed by the perspectives of various stakeholders. We are grateful for the opportunity to contribute to this ongoing dialogue and look forward to continuing our collaborative efforts to enhance the quality and effectiveness of healthcare delivery.

In response to the proposed 2025 revisions, as published in the July 22, 2024, *Federal Register* (Vol. 89, No. 140, pages 59186-59581), we offer the following comments and recommendations for CMS's consideration.

Hospital outpatient payment for dental services

Request for additional dental surgical procedures to be payable in the hospital outpatient setting

In line with our commitment to ensuring that Medicare beneficiaries have access to essential dental services across a range of care settings, AAOMS respectfully requests that CMS consider expanding the list of dental procedures payable in the hospital outpatient setting. Specifically, we request consideration for additional dental surgical procedures that are vital for diagnosing and treating oral or dental infections linked to certain acute conditions and Medicare-covered therapies.

Among the services that may contribute to the elimination of an oral or dental infection are a variety of dental surgical procedures including, but not limited to, surgical interventions to facilitate tooth eruption, alveoloplasty or ridge preparation and removal of lateral exostosis of the jaws. These procedures can be furnished safely in the hospital outpatient setting and thus may be appropriate for payment under the OPPS.

As such, we reiterate the submission of the following CDT©[1] codes for CMS's consideration regarding potential assignment to clinical Ambulatory Payment Classifications (APCs) under the OPPS:

- **Alveoloplasty or ridge preparation procedures as described by CDT© codes D7320 and D7321.**
- **Removal of lateral exostosis of the jaws as described by CDT© code D7471.**

In consultation with our panel of experts, these services have been identified as commonly requiring pre-operative evaluation and management, pre-operative imaging, administration of anesthesia, full-thickness mucoperiosteal flap elevation, osteotomy, debridement of surrounding tissue and suturing for wound closure.

Alveoloplasty and the removal of lateral exostosis are often necessary procedures for medically compromised patients undergoing tooth removal prior to radiation treatment. Failure to perform these procedures, when indicated, can put patients at risk for osteoradionecrosis (ORN) following radiation therapy and may impede their ability to receive a removable prosthesis due to the risk of tissue trauma. These procedures are already considered to be safe in facility settings as evidenced by the fact that the CPT©[2] codes for these procedures—41874 for alveoloplasty and 41823 for the removal of exostosis—are recognized and may be reimbursed in both facility and non-facility settings. On the facility side, these codes are recognized under both the OPPS and ASC payment systems. Given this, the corresponding dental codes describing these services should also be recognized and payable in these care settings when they meet Medicare program criteria.

While alveoloplasty and the removal of lateral exostosis are frequently necessary on their own, such procedures may also be required to address common sequelae following dental extractions, which currently may be covered when linked to certain Medicare-covered medical procedures. Excluding these essential dental procedures from coverage places patients at considerable risk and diminishes the effectiveness of initial treatments aimed at eliminating oral or dental infections.

In the context of Medicare-covered dental services, such as those linked to heart valve replacement or repair, organ transplant procedures and certain cancer treatments, these dental procedures highlight the interdependence of oral health and overall systemic health. Ensuring that dental or oral sources of infection are addressed through dental interventions, such as those noted above, can be critical in

[1] CDT© is a registered trademark of the American Dental Association.
[2] CPT© is a registered trademark of the American Medical Association.

minimizing the risk of endocarditis, improving the success rate of transplants and reducing complication rates during cancer treatments.

ASC payment for dental services

Addition of CDT© codes to the ASC Covered Procedures List

OMSs routinely evaluate and safely treat patients ranging in complexity across a variety of care settings. Therefore, AAOMS continues to support Medicare coverage for select dental services across inpatient, outpatient hospital and ASC settings.

We reiterate our appreciation of CMS's acknowledgment and consideration of our comments and recommendations. AAOMS supports the agency's proposal to add 16 dental procedure codes to the ASC Covered Procedures List (CPL) for CY 2025. However, **building on the arguments made above, we also wish to restate our previous request for CMS to consider CDT© codes D7320, D7321 and D7471 for possible inclusion on the ASC CPL**.

It can be demonstrated that these procedures satisfy the criteria[3] for addition to the ASC CPL, as they:

- Do not generally result in extensive blood loss.
- Do not require major or prolonged invasion of body cavities.
- Do not directly involve major blood vessels.
- Are generally not emergent or life threatening.
- Do not commonly require systemic thrombolytic therapy.
- Are not designated as requiring inpatient care.
- Are not limited to a CPT unlisted surgical procedure code.
- Are not other excluded by current regulation.

Permitting Medicare payment in the ASC setting for certain dental surgical services—specifically those that are inextricably linked and deemed medically necessary for identifying, diagnosing and treating oral or dental infections—may contribute to the consistent application of Medicare dental coverage and payment policies across various care settings. Additionally, ASCs can help alleviate many barriers to care, such as limited access to hospital operating rooms due to staffing shortages and high costs. Patients who face geographic or transportation challenges may also benefit from the accessibility of ASCs. Research shows that moving procedures to these less costly settings benefits the healthcare system overall.

Moreover, expanding the list of dental codes with specific facility payment rates under the ASC payment system to align with the list of dental codes with specific facility payment rates under the OPPS payment system may allow ASCs to bill for a wider range of dental procedures and reduce the burden on hospitals, while improving patient access to facility-based dental services.

Separate payments for non-opioid pain treatments

AAOMS strongly supports separate payment under both the OPPS and ASC payment system for select non-opioid pain treatments, including Exparel. Exparel is a non-opioid analgesic that has proven highly

[3] Covered Surgical Procedures, 42 CFR § 416.166

effective in oral and maxillofacial surgery for extended postoperative pain relief, reducing reliance on opioids and minimizing the risk of opioid dependence.

In a 2020 study published in *Current Pain and Headache Reports*, Kaye et al.[4] examined the role of Exparel combined with meloxicam in managing postoperative pain. Exparel, a long-acting bupivacaine liposomal injectable suspension, has been shown to reduce opioid use and lower pain scores in patients undergoing various surgical procedures. The study highlights the efficacy of this combination, particularly in normalizing pH and providing anti-inflammatory and analgesic effects, making it a valuable option for postoperative pain management. Moreover, other research by Kaye et al. [5] supports Exparel as an integral part of enhancing postoperative multimodal pain control and reducing opioid reliance. Amin et al. [6] also cite studies indicating that liposome bupivacaine infiltration, such as Exparel, has been shown to reduce postoperative pain after oral and maxillofacial surgery, including third molar extractions and dental implant procedures.

Given CMS's intent to implement Section 4135 of the Consolidated Appropriations Act, 2023, which includes temporary separate payment for certain non-opioid pain treatments in hospital outpatient settings and ASCs, it is crucial that the payment cap reflects the actual costs of these drugs and devices. Transparent methodology and accurate reimbursement are essential to ensure providers can continue to offer these vital pain management options. A payment methodology that aligns with actual costs would support broader adoption and enhance patient care.

Ambulatory Surgical Center Quality Reporting (ASCQR) Program

The ASCQR Program, while intended to promote informed patient decision-making, imposes significant reporting burdens on ASCs.

A streamlined approach to measure reporting that prioritizes relevant, impactful data while minimizing unnecessary administrative tasks may enhance the efficiency of the ASCQR Program. Ensuring that reporting requirements are manageable is vital for ASCs to maintain high standards of care without being overwhelmed by excessive documentation and compliance obligations.

AAOMS supports efforts by CMS to adopt frameworks that achieve these goals, thereby ensuring both quality care and a more practical, sustainable reporting process for ASCs. By reducing the administrative load, ASCs can focus more on patient care and outcomes, which is the ultimate goal of the ASCQR Program.

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[4] Kaye, A.D., Novitch, M.B., Carlson, S.F., Fuller, M.C., White, S.W., Haroldson, A.R., Kaiser, J.A., Elkersh, M.A., Brunk, A.J., Jeha, G.M., Cornett, E.M. (30 January 2020). The role of Exparel plus meloxicam for postoperative pain management. *Curr Pain Headache Rep*, 24(6). https://doi.org/10.1007/s11916-020-0837-2.

[5] Kaye, A.D., Armstead-Williams, C., Hyatali, F., Cox, K.S., Kaye, R.J., Eng, L.K., Farooq Anwar, M.A., Patel, P.V., Patil, S., Cornett, E.M. (23 October 2020). Exparel for postoperative pain management: a comprehensive review. C*urr Pain Headache Rep*, 24(73). https://doi.org/10.1007/s11916-020-00905-4.

[6] Amin, D., Manon, V.A., Pedro, F. (2024). Non-opiod analgesic pain management. In Amin, D., Marwan, H. (eds), *Pearls and Pitfalls in Oral and Maxillofacial Surgery (pp.59-64)*. Springer, Cham. https://doi.org/10.1007/978-3-031-47307-4_9.

Thank you for your consideration of these comments. Please contact Patricia Serpico, AAOMS Director of Health Policy, Quality and Reimbursement, with any questions at 800-822-6637, ext. 4394 or pserpico@aaoms.org.

Sincerely,

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