

treatment of dialysis patients. We are decreasing our current payment to the physician for providing fewer than four visits per month. If the physician provides four or more visits per month, we are increasing our current payment.

G. Rebasing and Revising the MEI

As indicated in section III.A. of this proposed rule, we are proposing to rebase and revise the MEI for the CY 2004 physician fee schedule. Substituting the 2000 MEI weights in place of the 1996 weights currently in use will increase the MEI by approximately 0.1 percent for 2004. Based on our current estimates, we expect no impact from this proposal on any subsequent year MEI.

H. Definition of Diabetes for Diabetes Self-Management Training

We are proposing to revise the definition of diabetes for purposes of the Outpatient Diabetes Self-Management Training benefit and use the definition established to determine beneficiary eligibility for Medical Nutrition Therapy when the beneficiary has a diagnosis of diabetes. The streamlining of the beneficiary eligibility requirements for Outpatient Diabetes Self-Management Training will reduce administrative burden for the referring physician or qualified non-physician practitioner and for the accredited Outpatient Diabetes Self-Management Training programs by simplifying documentation requirements and eliminating the need for reconsiderations and appeals to clarify that the requirements have been met. As indicated in the February 28, 2003 **Federal Register** (68 FR 9572), we incorporated an adjustment to the SGR consistent with our original estimates of expenditures associated with this new benefit. Our experience is that expenditures have been less than originally estimated. We expect that simplifying administrative requirements associated with this new benefit will make it more likely that expenditures for diabetes self-management training will be consistent with original estimates and there will be no increase in Medicare expenditures from making these modifications.

I. Alternatives Considered

This proposed rule contains a range of policies. The preamble identifies those policies when discretion has been exercised and presents rationale for our decisions, including a presentation of nonselected options.

J. Impact on Beneficiaries

Although changes in physicians' payments were large when the

physician fee schedule was implemented in 1992, we detected no problems with beneficiary access to care. We do not believe that there would be any problem with access to care as a result of the proposed changes in this rule. While it has been suggested that the negative update for 2004 may affect beneficiary access to care, we note that the formula to determine this update is set by statute and this regulation cannot, and does not, change it. Furthermore, since beginning our transition to a resource-based practice expense system in CY 1999, we have not found that there are problems with beneficiary access to care.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as follows:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 410.140 is amended by adding the definition of "Diabetes" to read as follows:

§ 410.140 Definitions.

* * * * *

Diabetes means diabetes mellitus consisting of two types. Type 1 is an autoimmune disease that destroys the beta cells of the pancreas, leading to insulin deficiency. Type 2 is familial hyperglycemia that occurs primarily in adults but can also occur in children and adolescents. It is caused by an insulin resistance whose etiology is multiple and not totally understood. Gestational diabetes is any degree of glucose intolerance with onset or first recognition during pregnancy. The diagnostic criterion for a diagnosis of diabetes for a fasting glucose intolerance

test is greater than or equal to 126 mg/dL.

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3. Section 410.141 is amended by adding paragraph (f) to read as follows:

§ 410.141 Outpatient diabetes self-management training.

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(f) Beneficiaries who may be covered. Medicare Part B covers outpatient diabetes self-management training for a beneficiary who has been diagnosed with diabetes.

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PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

2. Section 414.22(b)(6)(iii) is revised to read as follows:

§ 414.22 Relative value units.

* * * * *

(b) * * *

(6) * * *

(iii) CMS will consider for use in determining practice expense RVUs for the physician fee schedule survey data and related materials submitted to CMS by March 1, 2004 to determine CY 2005 practice expense RVUs.

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(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 20, 2003.

Thomas A Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: July 22, 2003.

Tommy G. Thompson,

Secretary.

Addendum A—Explanation and Use of Addenda B

The addenda on the following pages provide various data pertaining to the Medicare fee schedule for physicians' services furnished in 2003. Addendum B contains the RVUs for work, non-facility practice expense, facility practice expense, and malpractice expense, and other information for all services included in the physician fee schedule.

In previous years, we have listed many services in Addendum B that are not paid under the physician fee schedule. To avoid publishing as many pages of codes for these services, we are not including clinical laboratory codes