

the packaging of drugs and the adequacy of payment for separately paid drugs. However, in the absence of alternative proposals by us, the APC Panel did not make further recommendations on that issue. The APC Panel requested that we present alternative options during the winter 2004 meeting, including a new APC structure for drugs and radiopharmaceuticals. As for specific drug issues, after hearing testimony concerning the codes for Baclofin refill kits, the APC Panel recommended that we delete code C9010 and retain the other codes for this product used in the treatment of Parkinson's disease and spasticity.

We have carefully considered each of the APC Panel's recommendations along with comments on the subject of drug administration and payment for drugs, biologicals, and radiopharmaceuticals. For the reasons discussed more fully elsewhere in this final rule, we have decided to accept the APC Panel's recommendations that we continue using Q0081 through Q0084 in 2004; that we continue to define these codes on a per-visit, rather than per-day basis; that we delete code Q0085; and that we delete code C9010. We have decided to continue paying for the drug administration "Q" codes according to our current rules and discuss that decision further in section VI.B.4 of this final rule. We will consider the Panel's recommendation that we investigate other approaches for paying for drugs and radiopharmaceuticals. However, for 2004, we have determined that we will pay separately under their own APCs for drugs, biologicals and radiopharmaceuticals for which the median per day costs are in excess of \$50.

(4) Device-Related Procedures

The APC Panel heard testimony from the device manufacturing community and others concerning payment for procedures that involve the implantation of devices. The presenters discussed concerns that affected such procedures in general, such as the absence of a proposal to limit payment reductions for such procedures between 2003 and 2004 and issues related to the hospital claims for these procedures. Presentations to the APC Panel also discussed inadequacies in the claims data or our methodology for using the claims data to set relative weights for specific device-related APCs (APCs 0046, 0107, 0108, 0222, 0225, 0385, and 0386. Presenters urged that the APC Panel advise us to use the best external data possible, including proprietary data that would be held confidential. Presentations to the APC Panel also

addressed the multiple surgical reduction with respect to device-related APCs.

The APC Panel recommended:

- That we use credible external data that can be made publicly available for establishing the median costs for APCs 0107 and 0386.
- That we change the status indicator for CPT 61885 so that it is not subject to the multiple procedure discounting.
- That we assign the new CPT codes for central venous access devices into appropriate APCs, either clinical APCs or new technology APCs.
- That the APC assignments of the new central venous access devices be reviewed by the APC Panel at its next meeting.
- That we provide the APC Panel with median cost data for all APCs in spreadsheet format for its consideration in advance of and during its next meeting.
- That we review the presenter's suggestions with respect to APC 0046 and make recommendations for any changes to this APC to the APC Panel at its next meeting.
- That we change the status indicator for CPT 93571 and 93572 from "N" (packaged status) to an appropriate indicator that allows separate payment under the APC.

We considered the final set of recommendations from the APC Panel's August 2003 meeting and have accepted several of them. Specifically, we decided to use external data in setting the median cost for 2004 for APC 0107. We have not used external data for APC 0386. Each of these decisions is discussed in greater detail elsewhere in this final rule. We accepted the Panel's recommendation to change the status indicator for CPT 61885. In order to do so, we moved this code into its own APC, 0039, Implant neurostim, one array. We have assigned the new CPT codes for central venous access devices to New Technology APCs as displayed in Addendum B. The range of new CPT codes is 36555 through 36597, and the new APC assignments include APCs 0032, 0115, 0109, 0187, and 1541.

The assignment of these codes is subject to public comment and will be placed on the APC Panel's agenda for its next meeting. During that meeting, we will also provide the APC Panel with spreadsheet data on the median costs of all APCs. With respect to APC 0046, we are sympathetic to the presenter's concerns. However, we were not provided with data that we considered sufficient to assess whether a new coding structure with increased payment rates is warranted for the treatment of bone fractures with

external fixation devices. However, we would support the specialty societies' efforts to request changes to the existing CPT coding structure. For reasons discussed elsewhere, we have not accepted the Panel's recommendation with respect to CPT codes 93571 and 93572.

Comment: An association voiced concern that the Panel meeting on August 22, 2003 came too soon after the publication of the August 12, 2003 proposed rule for its members to prepare adequately for presentation to the Panel.

Response: The agency must schedule the Panel meetings sufficiently in advance of the meeting in order to provide ample notice to the public of the meeting and to allow sufficient time for the Panel members to arrange their schedules. We attempted to balance those needs with the goal of conducting the first mid-year meeting of the Panel during the comment period so that issues discussed in the August 12, 2003 proposed rule could be topics for the Panel's consideration and interested parties' testimony before the Panel. The July 25, 2003 **Federal Register** notice (68 FR 44089) announced the second 2003 meeting of the APC Panel, which we believe provided sufficient advance notice of the meeting.

While it is true that the proposed rule was placed on display on August 6, published on August 12, and the meeting was held on August 22, 2003, many interested parties attended the meeting and presented thoughtful comments on most issues discussed in the proposed rule. Nevertheless, we will take this comment into consideration for future planning of APC Panel meetings.

Comment: Several commenters expressed concern about the length of the meeting and time allotted on the agenda to particular issues. One commenter stated that scheduling only [1] day for Panel deliberations was inadequate. A commenter was concerned that device-related issues were relegated to the last hour, that presenters were given only 2 minutes, and that there was little time for Panel discussion and consideration of the issues presented.

Response: We appreciate the commenter's interest in ensuring that adequate time be allowed for the public to present issues for the Panel's consideration and for the Panel to have sufficient time for their discussion and deliberation.

Although the device issues were scheduled for the last hour of the meeting, the Panel members received the written presentations beforehand, and had an opportunity to review them