

with any other information related to the survey as we may require (including corrective action plans).

#### IV. Response to Public Comments and Notice Upon Completion of Evaluation

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

#### V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

#### VI. Regulatory Impact Statement

In accordance with the provisions of Executive Order 12866, the Office of Management and Budget did not review this proposed notice.

In accordance with Executive Order 13132, we have determined that this proposed notice would not have a significant effect on the rights of States, local or tribal governments.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 7, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. E8–28178 Filed 11–26–08; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS–1397–N]

#### Medicare Program; Rechartering of the Advisory Panel on Ambulatory Payment Classification Groups

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (DHHS).

**ACTION:** Notice.

**SUMMARY:** This notice announces the Rechartering of the Advisory Panel on Ambulatory Payment Classification (APC) Groups (the Panel) by the Secretary, DHHS (the Secretary) for a 2-year period with the new charter effective through November 21, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Shirl Ackerman-Ross, Designated Federal Official (DFO), Advisory Panel on APC Groups; Center for Medicare Management, Hospital & Ambulatory Policy Group, Division of Outpatient Care; 7500 Security Boulevard, Mail Stop C4–05–17; Baltimore, MD 21244–1850. You may also contact the DFO by phone at 410–786–4474 or by e-mail at [CMS\\_APCPanel@cms.hhs.gov](mailto:CMS_APCPanel@cms.hhs.gov).

For additional information on the APC Panel and updates to the Panel's activities, please search our Web site at: [http://www.cms.hhs.gov/FACA/05\\_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage](http://www.cms.hhs.gov/FACA/05_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage). You may also refer to the CMS Federal Advisory Committee Hotline at 1–877–449–5659 (toll-free) or call 410–786–9379 (local) for additional information. News media representatives should contact the CMS Press Office at 202–690–6145.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

##### *Purpose*

The Secretary of the Department of Health and Human Services (DHHS) (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act), as amended by section 201(h) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) (Public Law [Pub. L.] 106–113), and re-designated by section 202(a)(2) of the BBRA to establish and consult with an expert, outside advisory panel on the ambulatory payment classification (APC) groups established under the Medicare hospital Outpatient Prospective Payment System (OPPS).

##### *Authority*

Section 1833(t)(9)(A) of the Act (42 U.S.C. 13951(t)), as amended by section 201(h) of the BBRA of 1999 (Pub. L. 106–113). The Advisory Panel on APC Groups (the Panel) is governed by the provisions of Pub. L. 92–463, the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

The Panel was established by statute and has functions that are of a continuing nature. Therefore, its duration is not governed by section 14(a) of FACA, but rather it is otherwise provided by law. The Panel is rechartered in accordance with section 14(b)(2) of FACA.

##### *Function*

The Panel shall advise the Secretary and the Administrator, Centers for Medicare & Medicaid Services (CMS), about the clinical integrity of the APC groups and their associated weights, which are major elements of the Medicare hospital OPPS. The Panel is technical in nature, and it shall deal with the following issues:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Evaluating APC group weights.
- Reviewing the packaging of OPPS services and costs, including the methodology and the impact on APC groups and payment.
- Removing procedures from the inpatient list for payment under the OPPS.
- Using single and multiple procedure claims data for determination of APC group payments.
- Addressing other technical issues concerning APC group structure.

The subject matter before the Panel shall be limited to these and related topics. Unrelated topics are not subjects for discussion. Unrelated topics include, but are not limited to, the conversion factor, charge compression, pass-through payments for medical devices and drugs, correct code usage, and wage adjustments.

The Panel may use data collected or developed by entities and organizations other than the DHHS and CMS in conducting its review. The Secretary and the Administrator shall be advised of all matters pertaining to the Panel (i.e., membership, recommendations, subcommittees, meetings, etc.).

##### *Structure*

The Panel must be fairly balanced in its membership in terms of the points of

view represented and the functions to be performed. The Panel shall consist of up to 15 members who are representatives of providers.

Each Panel member must be employed full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPSS. The Secretary or Administrator selects the Panel membership based upon either self-nominations or nominations submitted by Medicare providers and other interested organizations.

All members must have technical expertise to enable them to participate fully in the Panel's work. Such expertise encompasses hospital payment systems; hospital medical care delivery systems; provider billing systems; APC groups; Current Procedural Terminology codes; and alpha-numeric Health Care Common Procedure Coding System codes; and the use of, and payment for, drugs, medical devices, and other services in the outpatient setting, as well as other forms of relevant expertise.

All members shall have a minimum of 5 years experience in their area(s) of expertise, but it is not necessary that any member be an expert in all of the areas listed above. For purposes of this Panel, consultants or independent contractors are not considered to be representatives of providers. Panel members may serve for up to 4-year terms. A member may serve after the expiration of his/her term until a successor has been sworn in. All terms are contingent upon the renewal of the Panel by appropriate action prior to its termination.

A Federal official shall serve as the Chair and shall facilitate the Panel meetings. The Secretary or designee shall select a Chair for the Panel. The Chair's term shall usually be for a period of 4 years, but it may be extended at the discretion of the Administrator or his/her duly appointed designee.

In order to conduct the business of the Panel, a quorum is required. A quorum exists when a majority of currently appointed members is present at full Panel or subcommittee meetings or is participating in conference calls.

As necessary, standing and ad hoc subcommittees, composed of members from the parent Panel, may be established to perform functions within the Panel's jurisdiction with the approval of the Secretary or his/her designee.

The FACA provides that each agency sponsoring a Federal advisory committee must appoint a Department Committee Management Officer (DCMO). The FACA also provides that

a Designated Federal Official (DFO) be appointed to the Panel. The DFO maintains required records on costs and membership; ensures efficient operations; maintains records for availability to the public; provides copies of all reports to the DCMO who shall, in turn, forward them to the Library of Congress; notifies the DCMO when standing subcommittees are established, including the subcommittee's name, membership, function, and estimated frequency of meetings; and provides management support services for the Panel and its standing and ad hoc subcommittees.

#### *Meetings*

Meetings shall be held up to three times a year at the call of the DFO. The agenda, which sets the boundaries for discussion, is developed by CMS and approved by the DFO. The agenda, which sets the boundaries for discussion, is developed by CMS and approved by the DFO. Meetings shall be open to the public, except as determined otherwise by the Secretary or other official to whom the authority has been delegated in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)). Adequate advance notice of all meetings shall be published in the **Federal Register**, as required by applicable laws and Departmental regulations, stating reasonably accessible and convenient locations and times.

#### *Compensation*

All members shall serve on a voluntary basis, without compensation, pursuant to advance written agreement. Members of the Panel shall be entitled to receive reimbursement for travel expenses and per diem in lieu of subsistence, in accordance with Standard Government Travel Regulations.

#### *Annual Cost Estimate*

Estimated FY 2009 annual cost for operating the Panel, including travel expenses for members but excluding staff support, is \$69,110. The estimated annual person-years of staff support required for the APC Panel is 1.0 FTE at an estimated annual cost of \$94,025.

#### *Reports*

In the event that a portion of a meeting is closed to the public, as determined by the Secretary, in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)) and FACA, a report shall be prepared that shall contain, at a minimum, the following: a list of members and their business addresses, the Panel's or

subcommittee's function, dates and places of meeting(s), and a summary of the Panel's/subcommittee's activities and recommendations made during that meeting. Reports shall also be prepared after all open-to-the-public Panel meetings and any subcommittee meetings and submitted to the DCMO.

#### *Termination Date*

Unless renewed by appropriate action prior to its expiration, the APC Panel shall terminate on November 21, 2010.

## **II. Provisions of This Notice**

This notice announces that the Secretary signed the APC Panel charter renewal on October 30, 2008.

## **III. Copies of the Charter**

You may obtain a copy of the APC Panel's charter by submitting a request to the DFO at the street or e-mail addresses listed above or by calling her at 410-786-4474.

## **IV. Collection of Information**

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

**Authority:** Section 1833(t)(9)(A) of the Act (42 U.S.C. 1395l(t)(9)(A)). The Advisory Panel on APC Groups (the Panel) is governed by the provisions of Pub. L. 92-463, the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

Dated: November 13, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. E8-28179 Filed 11-26-08; 8:45 am]

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

[CMS-1537-N]

### **Medicare Program; Town Hall Meeting on the Fiscal Year 2010 Applications for New Medical Services and Technologies Add-on Payments Under the Hospital Inpatient Prospective Payment Systems, February 17, 2009**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.