

# **CHARTER**

## **ADVISORY PANEL ON AMBULATORY PAYMENT CLASSIFICATION GROUPS**

### **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 consult with an 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.

### **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 hospital OPPS. The Panel is technical in nature, and it shall deal with the following issues:

- Addressing whether procedures within an APC are similar both clinically and in terms of resource use.
- Reconfiguring APCs (for example, splitting of APCs, moving Healthcare Common Procedure Coding System (HCPCS) codes from one APC to another, and moving HCPCS codes from new technology APCs to clinical APCs).
- Evaluating APC weights.
- Reviewing the packaging of device, drug, and procedure costs, including the methodology for packaging and the impact of packaging on APC groupings.
- Removing procedures from the inpatient list for payment under the OPPS.
- Using single and multiple procedure claims data.
- Addressing other technical issues concerning APC 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. Each Panel member must be employed full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPPTS. 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, CPT, and alpha-numeric HCPCS codes; and the use of, and payment for, drugs and medical devices 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 serve for 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 Designated Federal Official. The agenda, which sets the boundaries for discussion, is developed by CMS and approved by the Designated Federal Official. 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 2008 annual cost for operating the Panel, including travel expenses for members but excluding staff support, is \$67,105. The estimated annual person-years of staff support required for the APC Panel is 1.0 FTE at an estimated annual cost of \$89,985.

### **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.

**APPROVED:**

11/2/2008

Date

/s/

Michael O. Leavitt  
Secretary