August 11, 2017

VIA electronic mail to Glenn.McGuirk@cms.hhs.gov

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: New Clinical Diagnostic Laboratory Test Codes for the Clinical Laboratory Fee Schedule for Calendar Year 2018.

Dear Administrator Verma:

On behalf of the Coalition for 21st Century Medicine, and in follow-up to the comments we presented during the public meeting held on July 31, 2017, we are pleased to submit these additional comments for your consideration as you finalize your CY2018 Clinical Laboratory Fee Schedule (CLFS) Preliminary Payment Determinations.

The Coalition comprises many of the world's most innovative diagnostic technology companies, clinical laboratories, physicians, venture capital companies, and patient advocacy groups. Given the Coalition's mission to facilitate development and commercialization of innovative diagnostics to inform important patient management decisions, we have a keen interest in the agency's CLFS payment policies and determinations—especially those addressing coding and payment for: (1) Multianalyte Assays with Algorithmic Analyses (MAAA) and (2) Genomic Sequencing Procedures and other Molecular Multianalyte Assays.

Coalition member labs have developed diagnostics that make personalized medicine possible. By understanding the molecular nature of disease, these new tests allow clinicians and patients to select individualized treatment options, rather than basing treatment choices on broad assessment of what works best for a population. Member tests, among other things, assess cancer risk, identify productive chemotherapies, and predict the likelihood of cancer recurrence.

At the public meeting, the Coalition commented on three codes. Our recommendations were as follows:

- Code 81X41--crosswalk to code 81519
- Code 815X1-- gapfill
- Code 0003U – crosswalk to code 81503 or code 81539

1. CPT 81X41, "*Oncology (prostate), mRNA gene expression profiling by real-time RT-PCR of 46 genes (31 content and 15 housekeeping), utilizing formalin-fixed paraffin embedded tissue, algorithm reported as a disease-specific mortality risk score".*

New code 81X41 describes the Prolaris® test developed by Myriad Genetic Laboratories, a Coalition member. The Prolaris® test is a prognostic test which directly measures tumor cell growth characteristics for stratifying the risk of disease progression in prostate cancer patients. The Prolaris® test combines the RNA expression levels of 46 genes, 31 genes involved in cell cycle progression and 15 housekeeping genes to generate a Prolaris Score™ which is used to determine the aggressiveness of an individual patients' cancer. This is risk score information is new and independent of standard clinicopathologic features, such as PSA and Gleason score.

The Coalition recommended a crosswalk to existing code 81519, *"Oncology (breast), mRNA, gene expression profiling by real-time RT-PCR of 21 genes, utilizing formalin-fixed paraffin embedded tissue, algorithm reported as recurrence score".* The Coalition's recommended crosswalk was unanimously supported by presenters. Four of the nine CDLT Panel members present during the Monday meeting also supported this recommended crosswalk. We note that 81X41 was the only new MAAA code that the panel did not vote in support of commenters' pricing recommendation.

According to CMS's regulations, "Crosswalking is used if it is determined that a new CDLT is comparable to an existing test, multiple existing test codes, or a portion of an existing test code."[1] The Coalition believes from all existing MAAA test codes, that CPT 81519 is the most similar to the Prolaris® test in terms of sample type (formalin-fixed, paraffin-embedded tumor tissue), methodology (mRNA expression by RT-PCR), type of result (prognostic risk score), and the evaluation of a reasonably close number of genes (21 vs 46).

We respectfully disagree with the five Panel members who voted to refer CPT 81X41 to the MACs for Gapfill pricing. The Coalition believes that gapfill should only be used when no comparable codes exist. Further, CMS has stated its position to prefer a Crosswalk when possible to codes that are priced on the CLFS.

We recommend that CMS adopt the recommended crosswalk to CPT 81519 and establish a national payment rate for the new code.

2) 815X1 *"Oncology (prostate), promoter methylation profiling by real-time PCR of 3 genes (GSTP1, APC, RASSF1), utilizing formalin-fixed paraffin embedded tissue, algorithm reported as a likelihood of prostate cancer detection on repeat biopsy."*

New code 815X1 describes the Confirm MDx for Prostate Cancer test developed by MDxHealth, a coalition member. The Confirm MDx for Prostate Cancer uses methylation specific polymerase chain reaction analysis of a formalin-fixed, paraffin-embedded prostate biopsy tissue that was collected during the preceding 24 months. For men who received negative biopsy

[1] 42 CFR 414.508(a)(1)

results within the preceding 24 months, the Confirm MDx for Prostate Cancer can be used to address concerns about "false-negative" biopsy results by either "ruling out" men with a previously negative biopsy by confirming that no cancer exists or by "ruling in" men with negative biopsy results but who in fact harbor undetected small tumors that were missed during needle biopsy.

The Coalition recommended that CMS allow contractors to use gapfilling to price this test. CMS's regulations allow for gapfilling when there are "no comparable tests available"[2] to be used as a crosswalk. Eight members of the CDLT panel voted to refer new code 815X1 to the Medicare Administrative Contractors (MACs) for gapfill pricing in CY 2018.

In the case of the Confirm MDx for Prostate Cancer there are no appropriate analogs on the CLFS in either the Tier 1, 2, GSP or MAAA sections. The Confirm MDx for Prostate Cancer involves methylation specific PCR technology along with an algorithm the combination of which is unlike any existing code.

We recommend that CMS accept the panel's recommendation and refer new CPT 815X1 to the MACs for gapfill pricing beginning in 2018.

3. 0003U: "*Oncology (ovarian) biochemical assays of five proteins (apolipoprotein A-1, CA 125 II, follicle stimulating hormone, human epididymis protein 4, transferrin), utilizing serum, algorithm reported as a likelihood score"*

New code 0003U describes the Overa™ test, developed by ASPiRA labs, a subsidiary of Coalition member Vermillion, Inc. The Overa™ test is an FDA approved blood test that evaluates 5 biomarkers, in combination with an algorithm to produce a numerical result representing the risk of cancer. Overa™ is the next generation of the company's multivariate index assay, and is intended to be used to help predict the likelihood of cancer in women with ovarian masses and is intended to be used as a part of the pre-operative evaluation.

When considering possible payment recommendations for new code 0003U, used to report the Overa™ test, ASPiRA Labs and the Coalition initially considered recommending a straight crosswalk to CPT 81503, the code used to report claims for the OVA1® predicate test. At the meeting of the CDLT advisory panel, the panel resisted the call to crosswalk new or substantially revised codes to an existing code that does not have national pricing. We believe that CMS can do precisely that and point to the manner in which 81539 was originally crosswalked to 0010M, the predicate code. At the time of the crosswalk decision, 0010M did not have a nationally established price.

CPT 81503 is currently reimbursed by MACs at a rate of approximately $550.00. ASPiRA has reported applicable data as required by Section 216 of the Protecting Access to Medicare Act (PAMA) for CPT 81503 and we expect that CMS will issue a national price for this code beginning January 2018.

[2] 42 CFR 414.508(a)(2)

We strongly believe that a direct crosswalk of new code 0003U to 81503 and the application of the PAMA payment rate to both codes beginning January 1, 2018 is the most reasonable pricing alternative available.

As an alternative to a crosswalk to 81503, we suggest an alternative crosswalk to established code 81539,"*Oncology (high-grade prostate cancer) biochemical assay of four proteins (Total PSA, Free PSA, Intact PSA, and human kallikreine-2 [hK2]), utilizing plasma or serum, prognostic algorithm reported as a probability score.*" Much in the same was as Overa™ evaluates five biomarkers using an algorithm to produce a prognostic score, 81539 describes a test evaluating 4 biomarkers using an algorithm resulting in a prognostic score. This crosswalk would result in payment of $602.10 based on 2017 NLAs.

4. Addressing PAMA Implementation Comments

At the conclusion of the CLFS Public Meeting, one stakeholder presented recommendations regarding the implementation of PAMA. The Coalition would like to reaffirm our support for the timely implementation of PAMA on January 1, 2018. The Coalition supported CMS' delay of PAMA from 2017 to 2018 in order to allow stakeholders adequate time to prepare for the data collection and reporting period; however, further delay is not warranted. We support the Agency's continued implementation of PAMA and establishment of private payer based rates for the CLFS and implement those rates on January 1, 2018.

As we have commented in the past, we believe that CMS should proceed in a transparent fashion, while still protecting the confidentiality of the data reported by applicable laboratories. As we have stated in previous correspondence with the Agency, we urge CMS to publish the CY 2018 PAMA based payment rates with sufficient time to allow stakeholders to review and provide meaningful comment to the Agency.

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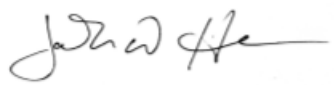
The Coalition appreciates the opportunity to provide comments on the New CLFS Codes for CY 2016. If you have any questions about these comments, please contact me at (650) 243-6363 or via electronic mail to john@veracyte.com.

Sincerely yours,



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