



**FLORIDA SOCIETY OF CLINICAL ONCOLOGY**  
**FLASCO BLAST May 12, 2010**  
**FLASCO WEBSITE: [www.flasco.org](http://www.flasco.org)**  
**FLASCO CLINICAL TRIALS NETWORK WEBSITE: [www.fctn.org](http://www.fctn.org)**

**MESSAGE FROM FLASCO PRESIDENT: Gerald Robbins, MD**

**2010 FLASCO Business of Oncology Summit**

The 2010 FLASCO Business of Oncology Summit will be held in Tampa on October 2, 2010. Please provide Dorothy at the FLASCO Office ([Dorothy.Green@flasco.org](mailto:Dorothy.Green@flasco.org)) with topics that you would like to have considered for this Summit - what topics would be helpful to you in your practice? What topics would make you attend this Summit?

**EHR**

CMS has announced that additional federal matching funds are for certain planning activities necessary to implement the electronic health record (EHR) incentive program established by the American Recovery and Reinvestment Act of 2009 (Recovery Act). To date a total of \$58.38 million has been awarded. These funds are for 4 or 5 states. In addition, **Congratulations** to Puerto Rico on being selected to receive \$1.8 million.

**LEGISLATIVE UPDATE: Erin Dunbar, MD, Chairman**

The Physician Assistant Bill-House 573 has been signed by Governor Charlie Crist. This Bill will eradicate the three-month waiting period to write prescriptions upon new PA employment or when a PA switches medical specialties. This Bill will now become law starting on July 1st, 2010.

**FCSO UPDATES:**

**Manual update regarding billing for discarded drugs or biologicals**

Effective date: July 30, 2010 - Implementation date: July 30, 2010

**Summary**

This article is a reminder to use the modifier JW when billing Medicare for all drugs -- except those provided under the Competitive Acquisition Program for Part B drugs and biologicals -- to identify unused drugs or biologicals from single use vials or single use packages that are appropriately discarded. This modifier, billed on a separate line, will provide payment for the discarded drug or biological. **Note:** Multi-use vials are not subject to payment for discarded amounts of drugs or biologicals.

**[http://medicare.fcso.com/Claim\\_submission\\_guidelines/169677.asp](http://medicare.fcso.com/Claim_submission_guidelines/169677.asp)**

**CMS UPDATES:**

**Newly-Released MLN Matters Article Regarding Changes to Medicare Claims Submission Requirements**

JUST RELEASED: MLN Matters Article #MM6960 - Systems Changes Necessary to Implement the Patient Protection and Affordable Care Act (PPACA) Section 6404 – Maximum Period for Submission of Medicare Claims Reduced to Not More Than 12 Months

The Centers for Medicare & Medicaid Services (CMS) has released MLN Matters Article #MM6960 to advise providers who submit claims to Medicare contractors that, as a result of the Affordable Care Act (ACA), claims with dates of service on or after January 1, 2010, received later than one calendar year beyond the date of service will be denied by Medicare. For more details, please read the article at

**<http://www.cms.gov/MLNMattersArticles/downloads/MM6960.pdf> on the CMS website.**

**MLM MATTERS UPDATES:**

**New:**

**MM6960** – Systems Changes Necessary to Implement the Patient Protection and Affordable Care Act (PPACA) Section 6404 - Maximum Period for Submission of Medicare Claims Reduced to Not More Than 12 Months  
<http://www.cms.gov/MLNMattersArticles/downloads/MM6960.pdf>

**MM6894** – Change in the Amount in Controversy (AIC) Requirement for Administrative Law Judge Hearings and Federal District Court Appeals  
<http://www.cms.gov/MLNMattersArticles/downloads/MM6894.pdf>

**MM6965** – Multiple Procedure Payment Reduction (MPPR) on the Technical Component (TC) of Certain Diagnostic Imaging Procedures  
<http://www.cms.gov/MLNMattersArticles/downloads/MM6965.pdf>

**Revised:**

**MM6632** – FDG PET for Solid Tumors and Myeloma  
<http://www.cms.gov/MLNMattersArticles/downloads/MM6632.pdf>

**EDUCATIONAL OPPORTUNITY:**

**20th Annual Mayo Clinic Hematology/Oncology Reviews**

**Thursday July 29th – Saturday July 31st, 2010**

The Ritz-Carlton Amelia Island, Amelia Island, Florida

Get Updated and Connected

**11th Annual Fellows’ Research Presentations**

**Register online:** [www.mayo.edu/cme/hematology-oncology/index.html](http://www.mayo.edu/cme/hematology-oncology/index.html)

**CORPORATE MEMBERSHIP/SPONSORSHIP: (January 1 – December 31, 2010)**

FLASCO Members extend a big thanks to all of our 2010 Corporate Members/Sponsors (Companies listed below have either paid 2010 dues or have submitted letters of intent)

<b><u>DIAMOND</u></b>	<b><u>PLATINUM</u></b>	<b><u>GOLD</u></b>	<b><u>SILVER</u></b>	<b><u>BRONZE</u></b>
Celgene	Abraxis	Allos Therapeutics	Genzyme	Alexion Pharmaceuticals
Cephalon	AMGEN	Bristol Myers Squibb	Meda Pharmaceutical	Biogen Idec
Eli Lilly	AstraZeneca	Genomic Health		The France Foundation
Genentech	Bayer Onyx	Millennium Pharmaceuticals		
Novartis	Eisai, Inc.	US Oncology		
Sanofi-Aventis	GlaxoSmithKline	OSI Pharmaceutical		
	Oncology Supply/ION			
	Pfizer			
	Ortho Biotech			

**FLASCO MEETINGS:**

**October 2, 2010** – FLASCO Business of Oncology Summit – Tampa

**November 5-6, 2010** – FLASCO Fall Meeting – Miami

**April 15-16, 2011** – FLASCO Annual Meeting & Spring Session - Tampa

**OTHER MEETINGS/WEBCASTS**

**October 7-10, 2010** The Association of Physician Assistants in Oncology (APAO), 13<sup>th</sup> Annual APAO Conference, The Ritz Carlton – Amelia Island, Florida **For more information, please visit [www.focus-ed.net/apao](http://www.focus-ed.net/apao)**

**FLASCO Contact Info:**

Dorothy Green Phillips, Executive Director

**New Mailing Address:**

**10022 Water Works Lane**

**Riverview, FL 33578**

**NEW E-MAIL ADDRESS - [Dorothy.Green@flasco.org](mailto:Dorothy.Green@flasco.org)**

**Note: The new telephone and fax numbers will be available and will be announced next Monday.**

**BOBBI BUELL UPDATE – MAY 6, 2010**

**Imaging: A Health Reform Victim**

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (known as "Health Reform Legislation"), requires referring physicians who provide MRI, CT or PET scans/services (and any other designated health services that CMS ultimately deems appropriate--which can include drugs, if they want to get nasty) under the in-office ancillary services exception of the federal Stark law (which means referring to your own ancillaries is an exception to the Stark Law) **to inform the patient in writing at the time of the referral that the patient may obtain the specific imaging services (MRI, CT and PET) from other "suppliers" in the "area in which the patient resides." The disclosure notice must contain a written list of such other "suppliers."**

To make sure you don't think we made this up to freak you out, the statutory text of this new disclosure requirement is evidenced below.

***SEC. 6003. DISCLOSURE REQUIREMENTS FOR IN-OFFICE ANCILLARY SERVICES EXCEPTION TO THE PROHIBITION ON PHYSICIAN SELF-REFERRAL FOR CERTAIN IMAGING SERVICES.***

*(a) IN GENERAL. -- Section 1877(b)(2) of the Social Security Act (42 U.S.C. 1395nn(b)(2)) is amended by adding at the end the following new sentence: Such requirements shall, with respect to magnetic resonance imaging, computed tomography, positron emission tomography, and any other designated health services specified under subsection (h)(6)(D) that the Secretary determines appropriate, include a requirement that the referring physician inform the individual in writing at the time of the referral that the individual may obtain the services for which the individual is being referred from a person other than a person described in subparagraph (A)(i) and provide such individual with a written list of suppliers (as defined in section 1861(d)) who furnish such services in the area in which such individual resides and (b) EFFECTIVE DATE. -- The amendment made by this section shall apply to services furnished on or after January 1, 2010.*

There are these questions about the requirement and we have researched many legal web sites to try to figure out the answer. **But, since CMS has not issued official regulations, some of these questions are hard to answer. We suggest that, if this applies to you, you contact a reputable health care attorney.**

- **The effective date:** Since the law was not enacted until March 23, 2010, some lawyers think that should be the effective date. Others think it should be when CMS implements a rule. But, the law says what it says---January 1.

- **When to provide the notice:** The written notice must be given to the patient patient by the referring physician "at the time of the referral" for the MRI, CT or PET services and must contain "a written list of suppliers (as defined in section 1861(d)) who furnish services in the area in which the individual resides." The term "supplier" is specifically defined in Section 1861(d) of the Social Security Act to mean "unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title."
- **How to give the notice:** You need proof that you did this, right? There should be a form that is signed and dated by the patient as proof that they received it and opted to have their stuff done in your clinic.

*This law is not enacted by any transmittal or memorandum.* Any legal advice should be obtained from an attorney. We have examples for you in the [FORMS section of the COA CAN web site](#) so you do not have to reinvent the wheel.

If you have imaging, also look for reductions to the technical component for secondary procedures in the Fall.

### **Modifier -JW**

Last week CMS issued clarification on the billing for drug waste. It is effective July 30. [Transmittal 1962](#) attempts to clarify the use of the JW modifier and billing for wasted drugs.

**Contractors MAY decide to use modifier -JW; it has not become mandatory.** Additionally, here does not appear to be any substantial change in policy related to the JW modifier CMS did provide additional billing examples--mainly to prevent over-billing or double billing. They specified that lines for drugs with the JW modifier are used for payment, as are lines for the portion of the drug administered. For example, a drug is packaged in 30 mg vials and the HCPCS code specifies 1 mg units (which many do these days). If the office gives 25 mg to the patient and wastes 5 mg, the provider would bill the HCPCS code on one line with 25 units and the HCPCS with modifier JW on a second line with 5 units. The payment would be for the total of 30 because both lines process for payment. Note that although CMS policy provides for payment of wasted drugs, contractor may use the JW modifier to identify them at their option.

**A second clarification basically says when NOT to use -JW.** For example, a drug is packaged in a 10 mg vial and the HCPCS code specifies 10 mg, but only 8 mg is provided to the patient. The office would bill the HCPCS code and a unit of 1 for the drug administered. This allows payment for the full 10 mg in the vial because the HCPCS already specifies 10 mg and therefore it is inappropriate to bill the additional 2 mg that were wasted with the -JW modifier. This would result in payment of more than the 10 mg that were administered and/or wasted by the provider as the 10 mg and 2 mg with -JW would add up to 12 mg, not the vial that is given.

Again, you can view the [Transmittal on the COA CAN web site](#).

### **Self Administration of Drugs Further Refined??**

Unfortunately, the latest change does not appear to change some MAC policies, but it **does clarify that a broader range of drugs may be considered for coverage.** The current policy allows for payment of drugs that are "not usually self administered" when given "incident to" a physician's service. The revised language makes clear that injectable drugs, including intravenously infused drugs, are "typically" covered (i.e. not usually self-administered). The manual used to state that "only" injectable drugs were eligible for coverage under this provision. **CMS indicated that this change is because of new drugs approved by the FDA that use routes other than injection---what that may be is not readily apparent. So, there is a possibility that these new drugs may be considered for coverage by contractors if they determine that they are "not usually self administered".**

Of course, we all know that some drugs administered by other routes are covered under special statutory provisions, such as oral cancer drugs with an injectable formulation and anti-emetic drugs administered with chemotherapy.