

Advising the Congress on Medicare issues

Addressing the growth of ancillary services in physicians' offices

Ariel Winter

September 14, 2010

What is the physician self-referral law?

- Prohibits physicians from referring Medicare/Medicaid patients for “designated health services” to a provider with which physician has financial relationship
- But in-office ancillary services exception permits physicians to provide most DHS in their offices (e.g., imaging, physical therapy, radiation therapy)

Potential benefits and concerns of providing ancillary services in physician offices

- **Benefits**
 - Enables physicians to make rapid diagnoses and initiate treatment during patient's office visit
 - Coordination of care
- **Concerns**
 - Could lead to higher overall volume through greater capacity, financial incentives
 - Studies find that physician self-referral associated with higher volume

Growth of ancillary services in physician offices

- Increase in imaging, lab tests, physical therapy, radiation therapy in physician offices
- Ancillary services account for significant share of Part B revenue for certain specialties
- CMS asked for comment in 2007 on whether certain services should no longer qualify for in-office exception

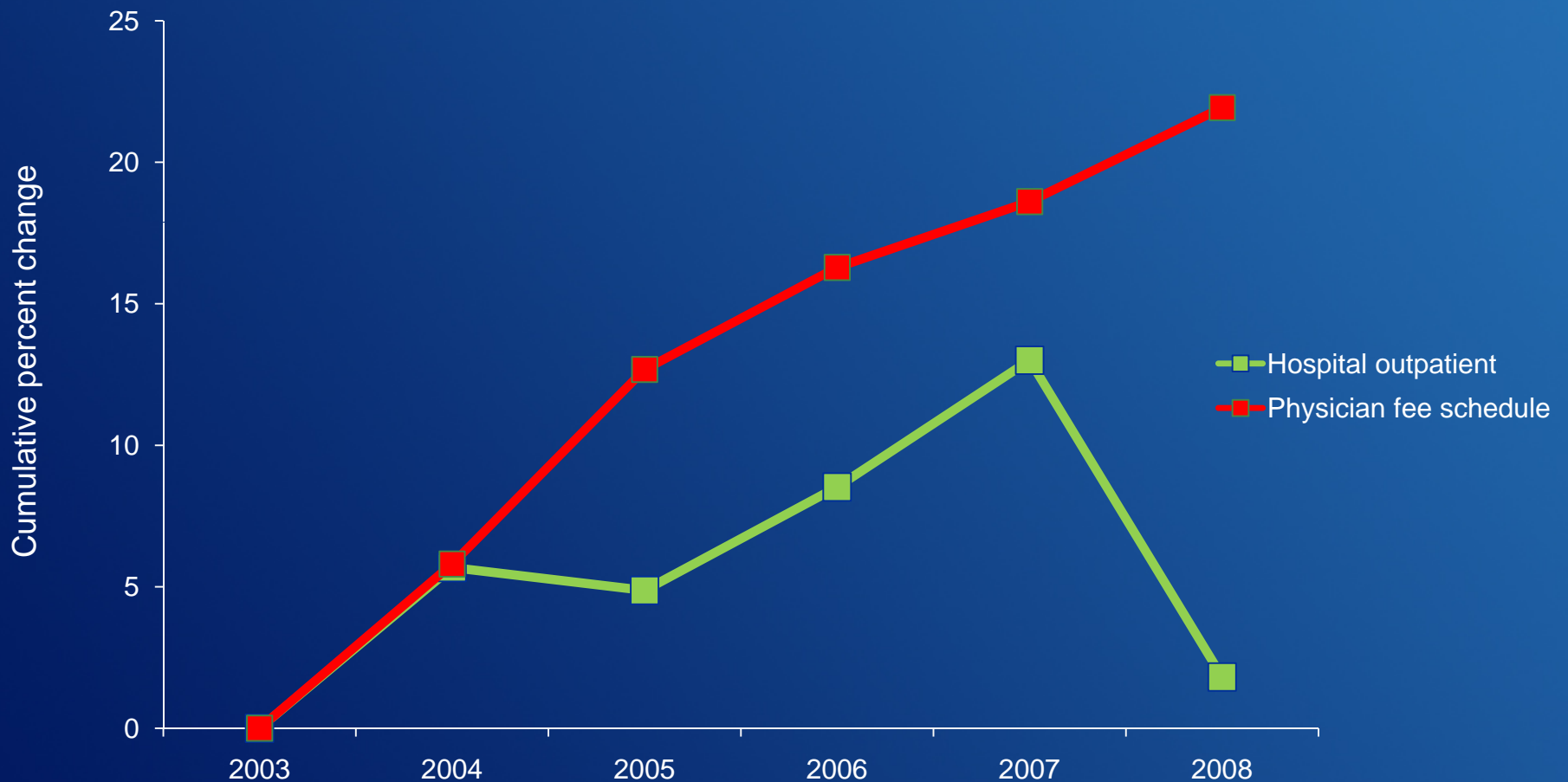
Comparing growth trends in ancillary services across settings

Average annual change in number of services per FFS beneficiary, 2003-2008

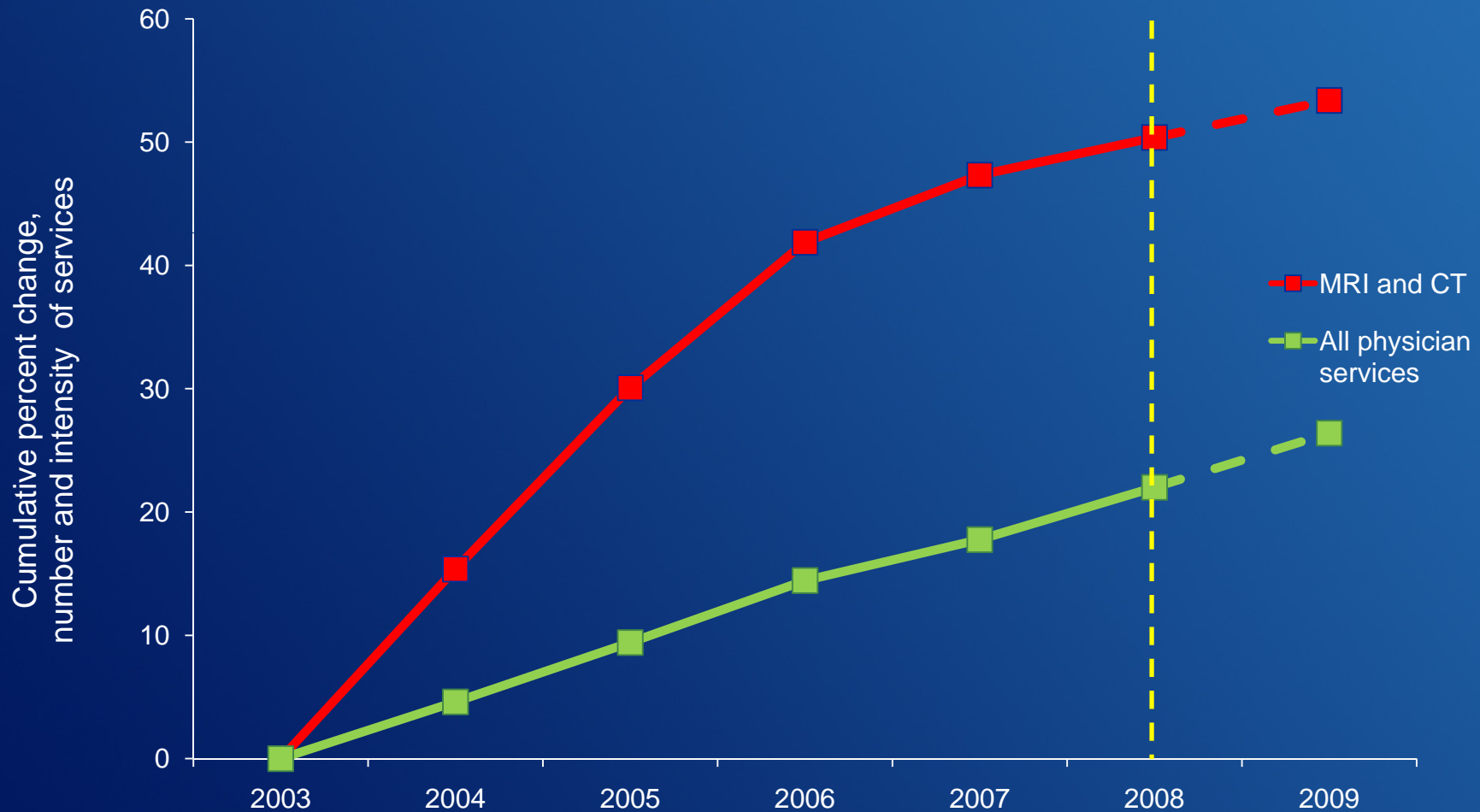
	Physician fee schedule	OPD and other settings
Diagnostic imaging	4.3%	0.4%
Outpatient therapy	9.4	5.1
Radiation therapy	3.2	-3.5

Note: OPD (hospital outpatient department). Outpatient therapy includes physical therapy, occupational therapy, and speech-language pathology services. In addition to OPDs, outpatient therapy is also provided in nursing homes, outpatient rehabilitation facilities, and other settings. Source: MedPAC analysis of claims data for 100% of Medicare beneficiaries.

Cumulative growth in the number of diagnostic imaging services, by setting (per FFS beneficiary)



Cumulative growth in physician fee schedule services: MRI and CT vs. all physician services (per FFS beneficiary)



June 2010 report: discussed policy options

Radiation therapy & outpatient therapy

Exclude from in-office exception

Exclude from exception unless practice is clinically integrated

Combining services into larger units of payment (e.g., bundling)

Diagnostic imaging & lab tests

Exclude from in-office exception unless provided on same day as visit

Exclude from exception unless practice is clinically integrated

Reduce payment rates for tests performed by self-referring physicians

Prior authorization program for advanced imaging

Combining services into larger units of payment (e.g., bundling)

Consultations with stakeholders

- Staff met with groups representing cardiologists, radiologists, pathologists, clinical labs, neurologists, urologists, oncologists, dermatologists, physical therapists
- Received letters from AMA, MGMA, AMGA, AAO, AANS, AAOS, ACR, ASN, ASE, ASNC, others

Option: Exclude outpatient therapy and radiation therapy from in-office ancillary exception

- Physician investment in therapeutic services may influence decisions about treatment
- Therapeutic services are generally not ancillary to an office visit
- Would affect clinically-integrated cancer groups that include medical and radiation oncologists

Option: Limit the exception to practices that are clinically integrated

- Balance risks of higher volume with potential benefits of integrated care
- Two possible criteria for defining clinical integration
 - Require each physician in the group to provide substantial share (e.g., 90%) of his/her services through the group
 - Require group to have EHR technology and use it for specific purposes (perhaps based on meaningful use criteria for incentive payments)

Option: Limit the exception to practices that are clinically integrated (cont.)

- Should this approach be applied only to therapeutic services or also applied to diagnostic tests?
- Even integrated groups have incentives to drive volume under current FFS payment systems
- Eventually, need to hold providers accountable for costs and quality

Option: Exclude diagnostic tests not usually provided on same day as office visit from exception

- One of key rationales for exception is that it enables physicians to provide ancillary services during office visit
- But certain tests rarely done on same day as visit
- CMS could set threshold for how frequently tests would need to be provided on same day as visit (e.g., 50%)
- Tests that fall below threshold would be excluded from exception

Option: Reduce payment rates for diagnostic tests performed by self-referring physicians

- Evidence that self-referral of imaging and lab tests associated with increased volume
- Lower payment rates for self-referring physicians would offset some of additional Medicare spending
- Size of payment reduction could be based on
 - Empirical estimates of effect of self-referral on volume
 - Activities that may be duplicated when tests are ordered and performed by same physician (e.g., reviewing records, discussing findings with referring physician)
 - Normative standard

Option: Prior authorization program for physicians who self-refer for advanced imaging

- Focus on self-referring physicians who order more studies than their peers
- Would target inappropriate use of imaging without prohibiting self-referral
- Concerns
 - Administrative costs for Medicare and providers
 - Medicare needs to have transparent criteria
 - Are decision rules based on sound evidence?
 - Lack of independent evidence that prior authorization has long-term impact on spending

Option: Combining multiple services into larger unit of payment (packaging or bundling)

- Could encourage efficient use of ancillary services
- Would not prohibit self-referral arrangements
- But much analytic work needs to be done to identify and price cohesive bundles of services

Illustration of how to combine strategies

Exclude services from in-office ancillary exception, unless

- Physician group meets criteria for clinical integration, or
- Group participates in accountable care organization, or
- Services are part of bundled payment

For Commissioner discussion: Which strategies should we pursue?

Radiation therapy & outpatient therapy

Exclude from in-office exception

Exclude from exception unless practice is clinically integrated

Combining services into larger units of payment (e.g., bundling)

Diagnostic imaging & lab tests

Exclude from in-office exception unless provided on same day as visit

Exclude from exception unless practice is clinically integrated

Reduce payment rates for tests performed by self-referring physicians

Prior authorization program for advanced imaging

Combining services into larger units of payment (e.g., bundling)