Reimbursement Challenges in an ASC

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Financial Disclosure

Nikki Hurley, RN
• No financial interests or relationships to disclose.

Kevin J. Corcoran is President of Corcoran Consulting Group and founder of Corcoran Compliance Connection and acknowledges a financial interest in the subject matter of this presentation.

Educational Objectives

• Identify items and services that have dubious reimbursement prospects
• Plan how to deal with challenges to reimbursement
  • Shifting responsibility
  • Avoiding reprehensible claims for reimbursement

Executive Summary

• Economic issues
• Regulatory issues
• Medical issues

ASC Payment 2014

• Consumer Price Index (CPI) and Multifactor Productivity Adjustment updates conversion factor by 1.2%

ASC Payment Rates

<table>
<thead>
<tr>
<th>CPT</th>
<th>Procedure</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>66984</td>
<td>ECCE w IOL</td>
<td>$964.64</td>
<td>$971.02</td>
<td>$975.58</td>
</tr>
<tr>
<td>66821</td>
<td>YAG Capsulotomy</td>
<td>$218.59</td>
<td>$230.51</td>
<td>$236.57</td>
</tr>
<tr>
<td>66180</td>
<td>Aqueous Shunt</td>
<td>$1,681.49</td>
<td>$1,671.00</td>
<td>$1,677.90</td>
</tr>
<tr>
<td>15823</td>
<td>Blepharoplasty</td>
<td>$861.74</td>
<td>$847.34</td>
<td>$757.47</td>
</tr>
</tbody>
</table>

Source: CMS-1601-FC

Source: 2014 rates – CMS-1601-FC Addendum AA
**Challenge: Lower Payments**

- Employer health plans that cover 65+ y/o beneficiaries use Medicare payment rates
- Medicare Advantage plans that use payment rates that are lower than Medicare
- Contract rates are more difficult to negotiate in the new age of the Affordable Care Act (ACA)

**Plan: New Revenue Sources**

- Expanding case volume in ASC
  - Additional surgeons
  - Additional procedures
  - Additional surgery days
- Payments for noncovered services
  - Refractive surgery
  - Cosmetic surgery

**Top 10 ASC Procedures**

<table>
<thead>
<tr>
<th>Rank</th>
<th>Procedure</th>
<th>Rank</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cataract w IOL</td>
<td>6</td>
<td>YAG capsulotomy</td>
</tr>
<tr>
<td>2</td>
<td>Upper GI Endoscopy</td>
<td>7</td>
<td>Lumbar injection</td>
</tr>
<tr>
<td>3</td>
<td>Colonoscopy</td>
<td>8</td>
<td>Diagnostic colonoscopy</td>
</tr>
<tr>
<td>4</td>
<td>Colonoscopy, remove lesion</td>
<td>9</td>
<td>Paravertebral injection</td>
</tr>
<tr>
<td>5</td>
<td>Epidural injection</td>
<td>10</td>
<td>Epidural injection (add on)</td>
</tr>
</tbody>
</table>

Source: Report to Congress: Medicare Payment Policy. 3/2013

**Medicare Enrollment**

![Medicare Enrollment Chart](chart_url)

**Cataract Surgery**

**Top 2 Cataract Surgeries**

![Cataract Surgery Chart](chart_url)
**Challenge: Slower Payments**

- Some carriers using stalling tactics for slow payment
  - Requesting multiple supportive documents
  - Increasing work load for billers
  - Accounts receivable grow; days in A/R increases

**Plan: Strengthen Billing Team**

- Billing processes and systems
- Certified coders
- A/R benchmarking

**Plan: Revenue Cycle Management**

**Challenge: Refractive Surgery**

- Legal jeopardy (e.g., kickback)
- Segregation of funds (i.e., ASC and surgeon)
- Purchasing arrangements (i.e., IOLs, equipment)
Professional Societies Advisory

- AAO and ASCRS publish joint guidelines in November 2012
- Limits when charges to patient for FS laser to:
  - Refractive lens exchange
  - Refractive astigmatic keratometry
- Encourage transparency of patient-shared pricing

Laser-Assisted Cataract Surgery

- CMS guidance published November 16, 2012
  “Medicare coverage and payment for cataract surgery is the same irrespective of whether the surgery is performed using conventional surgical techniques or a bladeless, computer controlled laser.”
  “Medicare patients may be charged a fee for performing astigmatic keratotomy, assuming that they were informed about, and consented to, the non-covered charges in advance.”

Medicare's Coverage Policy

Refractive Keratoplasty

“...keratoplasty for the purpose of refractive error compensation is considered a substitute or alternative to eye glasses or contact lenses, which are specifically excluded...keratoplasty to treat refractive defects are not covered.”

Source: NCD 80.7 Medicare Policy Keratoplasty

Advance Beneficiary Notice of Noncoverage (ABN)

- Option 1. I want the _____ listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment...I can appeal to Medicare...
- Option 2. I want the _____ listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment. I cannot appeal to Medicare...
- Option 3. I don’t want the _____ listed above. I understand with this choice I am not responsible for payment...I cannot appeal to Medicare...

Key Points

- Anything included in cataract surgery was already covered and paid
- Refractive testing and surgery is non-covered
- Use ABN or financial waiver forms

Best Practices

- Transparency – clearly inform patients of financial responsibility: for what, how much, why, and when
- Documentation – use a financial waiver, ABN or similar instrument to document financial responsibility
- Separation – segregate professional and facility fees and monies
- Compliance – follow CMS guidelines, and recommendations of AAO & ASCRS
### Kickback

Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program...

Source: Social Security Act §1128B

### Premium IOLs Yes or No?

You are the director of an ASC that uses premium IOLs. One of your surgeons wants to provide these IOLs from his own office consignment. Do you approve?

1) Yes
2) No

### Premium IOLs Yes or No?

An ASC purchases a toric IOL for $495 and bills the surgeon $505.50 for it including a small handling fee to cover shipping. The surgeon bills the patient $550 for the IOL. As the director of the ASC, do you approve?

1) Yes
2) No

### Premium IOL Yes or No?

You are the director of an ASC. A visiting surgeon asked you to let him handle all the financial arrangements for refractive cataract surgery – “it’s simpler that way”. Do you approve?

1) Yes
2) No

### FS Laser Fee Yes or No?

Your ASC bought a FS laser. You were advised by another ASC director to establish a policy that any surgeon who uses the laser must pay a “use fee”. Do you approve?

1) Yes
2) No

### FS Laser Fee Yes or No?

Your ASC bought a FS laser. Any patient who requests laser-assisted cataract surgery, with or without refractive surgery, is asked to pay the ASC an out-of-pocket laser fee of $900. Is this a good policy?

1) Yes
2) No
Executive Summary

- Economic issues
- Regulatory issues
- Medical issues

ASC Quality Measures

- ASC quality measure reporting for future payment determinations – required reporting began 10/1/12
- 98% of ASCs successfully reported avoiding 2% reduction to facility reimbursement in 2014
- Report measures when Medicare is primary or secondary insurance
- Five measures for ASCs, more added for 2015 reporting
- Reported with HCPCS Level II G codes, NHSN (CDC), and TBD for cataract visual function

Source: CMS Transmittal 2425 – 3/16/12, CMS-1589-FC, QualityNet.org

Challenge: New ASC Quality Measure

- New measures first delayed by 3 months; now until January 2015 - includes new cataract measure (#11)
- Anticipate CMS Final Rule at end of 2014
- Data collection (12 mos) starting January 1, 2015 for reporting in 2016
- Specifications manual indicates:
  - ASCs serving 900 cataract patients required to report on 63 cases
  - ASCs serving 901 or more cataract patients required to report on 96 cases

Source: ASCRS Regulatory Alert, 1/3/14

Plan: New ASC Quality Measure

- Forces ASCs to perform the visual function surveys both preoperatively and postoperatively by phone (or)
- Rely on physician office staff and for survey data
- Either way, impacts ASC reporting duties

Targets for Scrutiny

2014 OIG Work Plan

- Place of Service Errors
- Payments for drugs
- Ambulatory Surgical Centers – Payment System
- Ophthalmological Services – Questionable billing during 2012
- Noncompliance with assignment rules and excessive billing of beneficiaries

Source: HHS OIG FY 2014 Work Plan

New Targets for Scrutiny

2014 OIG Work Plan

- Anesthesia services – Payments for personally performed services
- Payment for compounded drugs under Medicare Part B
- Security of Electronic Health Records

Source: HHS OIG FY 2014 Work Plan
**HIPAA Privacy Rule**

Reporting of breach:

1. Individual notice to the patient(s) within 60 days following the discovery
2. If > 500 patients, notify media outlets in the area within 60 days of discovery
3. Notify secretary of DHHS with breach reporting form on HHS website. If > 500 patients report “without reasonable delay”, no later than 60 days. If < 500 report on an annual basis.

Source: http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html

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**Executive Summary**

- Economic issues
- Regulatory issues
- Medical issues

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**Challenges: Documentation Issues**

- Written/paper supportive documents pose issues with legibility
- EMR supportive documents pose issues with missing or incorrect documentation when systems are not designed properly

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**Criteria for Cataract Surgery**

- Objective evidence of a cataract
- Reduced visual acuity
- Lifestyle complaints
- Good prognosis for improvement
  - Alternate – to aid in treatment of retina
- Patient can tolerate anesthesia
- Patient awareness

Source: AAO Preferred Practice Pattern, Adult Cataract

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**Criteria for Cataract Surgery**

- The patient has undergone a standardized formal measure of his visual functional status, the results of which suggest that the patient’s visual functional status can be improved commensurate with the risk of surgery by undergoing cataract extraction with IOL implant. Such testing can be performed with standardized measurement tools such as the Activities of Daily Vision Scale or the VF-14 questionnaire.

Source: Novitas LCD L32690

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**Criteria for Cataract Surgery**

- The patient has impairment of visual function due to cataract(s) resulting in:
  - Decreased ability to carry out activities of daily living such as reading, viewing television, driving or meeting occupational or vocational expectations.
  - Snellen visual acuity of 20/40 or worse. Not all patients with visual acuity of 20/40 or worse require cataract surgery because:
    - They are able to satisfactorily carry out their activities of daily living with changes in eyeglasses, lighting or other non-operative means.
    - The operative risk is not commensurate with the potential benefit to the patient.
    - Other eye disease such as macular degeneration or diabetic retinopathy rather than cataract is the limiting factor of visual function.
  - The patient has posterior segment disease requiring surgical or laser intervention and where the cataract is an impairment to visualization.

Source: Highmark Medicare Advantage Medical Policy, S-14 June 18, 2011
Criteria for Cataract Surgery

• Medicare coverage for cataract extraction with Intraocular Lens implant (IOL) is based on services that are reasonable and medically necessary for the treatment of beneficiaries who have a cataract. Cataract patients must have an impairment of visual function due to cataract(s) resulting in the decreased ability to carry out activities of daily living such as reading, viewing television, driving or meeting occupational or vocational expectations, with further annotation of the following bulleted indications:

Source: Novitas LCD L32690

Illustrative Chart Note

CC: Postop check OD
HPI: Phaco/IOL OD 6 days ago
VA cc: 20/30 OD
Dx: Pseudophake OD, Cataract OS
Plan: Phaco/IOL OS ← Asymptomatic

Better Chart Note

CC: Re-evaluation cataract OS, postop check OD, patient notices annoying imbalance between eyes
HPI: Cataract OS¹ x 3 yrs², VA poor³ for last 9 mos with annoying imbalance⁴ and some diplopia since first surgery, current glasses no help, glare @ night⁵, difficulty with driving⁶

Second Eye

• Is patient stable?
• New complaint? (e.g., diplopia, imbalance)
• Repeat
  • Documentation of disability
  • Exam that determines need for surgery
  • Informed consent
• Inside postop period?
  • Use modifier -24 and/or modifier -57

RAC Issue

Name Professional Services Review of Blepharoplasty – Eyelid Lifts
Number B008142013
Description Blepharoplasty is the plastic repair of the eyelid, and usually refers to an operation in which redundant skin, muscle, and/or fat are excised. Functional blepharoplasty usually involves the excision of skin and orbicularis muscle. This procedure is usually done to correct a deficit in the upper or peripheral field of vision or as noted on forward gaze by skin resting on the upper eyelashes. When blepharoplasty repair is done for cosmetic purposes it does not meet the criteria of the functional visual impairment parameters and is considered not reasonable and medical necessary and therefore will deny.
Claim Type Professional Services
Issue Type Complex Overpayment / Underpayment Overpayment
Dates of Service 6/1/2010 - Open

Source: http://racb.cgi.com/Issues.aspx
Illustrative Chart Note

CC: Patient states "My eyelids droop."
Dx: Blepharochalasis, both UL
Test: Bleph VF
Tx: Schedule Blepharoplasty, both UL

Blepharoplasty

Upper Eyelid Blepharoplasty (CPT 15822 & 15823) is considered medically necessary when:
A. Clinical notes, rather than formal visual field testing, support a decrease in peripheral vision and/or upper field vision; and
B. Photographs document obvious dermatochalasis, ptosis, or brow ptosis; and such photographs must be good quality frontal photographs, with the gaze in primary position, looking straight ahead. The photos must demonstrate a distance of 2 mm or less from the central corneal reflex to the upper eyelid margin or skin that overhangs the eyelid margin (pseudoptosis), or
C. Symptomatic skin rests on the upper eyelashes that cause a decrease in peripheral vision and/or upper field of vision, and photographs document the skin on the eyelashes.

Source: Novitas LCD L32715

Questions Or Concerns?

Nikki Hurley, RN
Nikki.Hurley@KeyWhitman.com
or
(866) 605-4455

More help...

For additional assistance or confidential consultation, please contact Kevin Corcoran at:
(800) 399-6565
or
www.CorcoranCCG.com
Advance Beneficiary Notice of Noncoverage (ABN)

**NOTE:** If Medicare doesn’t pay for the items or services below, you may have to pay.

Medicare does not pay for everything, even some care that you or your healthcare provider have good reason to think you need. We expect Medicare may not pay for the items or services below.

<table>
<thead>
<tr>
<th>Items or Services</th>
<th>Reason Medicare May Not Pay</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ The intraocular lens (IOL) upgrade</td>
<td>Medicare statutory exclusion, coverage policy limitation, or other restriction.</td>
<td>$_________</td>
</tr>
<tr>
<td>□ Laser for refractive surgery</td>
<td>See attachment for details.</td>
<td></td>
</tr>
<tr>
<td>□ Intraoperative wavefront aberrometer</td>
<td>See attachment for details.</td>
<td></td>
</tr>
</tbody>
</table>

WHAT YOU NEED TO DO NOW:

- Read this notice, so you can make an informed decision about your care.
- Ask us any questions you may have after you finish reading.
- Choose an option below about whether to receive the _____________________ listed above.

**Note:** If you choose Option 1 or 2, we may help you to use any other insurance that you might have, but Medicare cannot require us to do this.

OPTIONS:  
Check only one box. We cannot choose a box for you.

[ ] OPTION 1. I want the items or services listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment, which is sent to me on a Medicare Summary Notice (MSN). I understand that if Medicare doesn’t pay, I am responsible for payment, but I can appeal to Medicare by following the directions on the MSN. If Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.

[ ] OPTION 2. I want the items or services listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment, and I cannot appeal if Medicare is not billed.

[ ] OPTION 3. I don’t want the items or services listed above. I understand with this choice I am not responsible for payment, and I cannot appeal to see if Medicare would pay.

Additional Information:

This notice gives our opinion, not an official Medicare decision. If you have other questions on this notice or Medicare billing, call 1-800-MEDICARE (1-800-633-4227 / TTY: 1-877-486-2048).

Signing below means that you have received and understand this notice. You also receive a copy.

**Signature:**

**Date:**
Attachment to Advance Beneficiary Notice of Noncoverage (ABN)

<table>
<thead>
<tr>
<th>Items or Services</th>
<th>Reason Medicare May Not Pay</th>
<th>Estimated Cost</th>
</tr>
</thead>
</table>
| ☐ The intraocular lens (IOL) upgrade from a conventional lens to a presbyopia-correcting or astigmatism-correcting lens | Medicare has established specific policies* concerning presbyopia-correction and astigmatism-correction that declare these added items and services to be not covered and the financial responsibility of the beneficiary.  
  * CMS Ruling No 05-01 (May 3, 2005), and Transmittal 636 (August 5, 2005) and CMS Ruling No 1536-R (January 22, 2007) | $__________   |
| ☐ The use of a femtosecond laser in refractive cataract surgery for making arcuate corneal incisions | The Medicare law, Social Security Act §1862(a)(1)(A), does not cover any service that is not required by medical necessity “…for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.” | $__________   |
| ☐ The use of an intraoperative wavefront aberrometer, such as ORA, in the operating room at the time of refractive cataract surgery | National Coverage Determination §80.7 specifies that “…keratoplasty for the purpose of refractive error compensation is considered a substitute or alternative to eyeglasses or contact lenses, which are specifically excluded . . . keratoplasty to treat refractive defects are not covered.” | $__________   |

Signing below means that you have received and understand this attachment to the ABN. You also receive a copy.

**Signature:**

**Date:**
Visual Functioning Index VF-8R


Agency for Healthcare Research and Quality Supported Disease-Specific Health Status Measure Tested for Reliability and Validity: http://www.ahrq.gov/clinic/out2res/outcom6.htm

1. Do you have any difficulty, even with glasses, reading small print such as labels on medicine bottles, a telephone book or food labels?
   _____ Yes  _____ No  _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

2. Do you have any difficulty, even with glasses, reading a newspaper or book?
   _____ Yes  _____ No  _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

3. Do you have any difficulty, even with glasses, seeing steps, stairs or curbs?
   _____ Yes  _____ No  _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

4. Do you have any difficulty, even with glasses, reading traffic signs, street signs or store signs?
   _____ Yes  _____ No  _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
4. Are you unable to do the activity?

5. Do you have any difficulty, even with glasses, doing fine handwork like sewing, knitting, crocheting or carpentry?
   _____ Yes          _____ No          _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

6. Do you have any difficulty, even with glasses, writing checks or filling out forms?
   _____ Yes          _____ No          _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

7. Do you have any difficulty, even with glasses, playing games such as bingo, dominos, card games or mahjong?
   _____ Yes          _____ No          _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?

8. Do you have any difficulty, even with glasses, watching television?
   _____ Yes          _____ No          _____ Not applicable
   If yes, how much difficulty do you currently have?
   1. A little
   2. A moderate amount
   3. A great deal
   4. Are you unable to do the activity?