C-TAC Policy Brief

Advance Care Planning Cost-Sharing as a Health Equity Issue

BACKGROUND

Advance care planning (ACP) has been described as a face-to-face conversation between an individual and a healthcare professional that helps adults at any age or stage of health to communicate their personal values, life goals, and preferences regarding future medical care--its benefits and burdens. C-TAC has historically supported improving access to ACP in the belief that it is foundational for person-centered care and shared decision-making.

Since January 2016, Medicare has reimbursed clinicians for ACP services to promote and incentivize these discussions. According to the Centers for Medicare & Medicaid Services (CMS), two Current and Procedural Terminology (CPT) codes pay for ACP services:

- Code 99497--Advance care planning includes the explanation and discussion of advance directives such as standard forms (with completion of such forms when performed by the physician or other qualified health care professional); first 30 minutes, face-to-face with the patient, family member(s), and/or surrogate CPT
- Code 99498- each additional 30 minutes.

While legal documents may be completed as part of the counseling, they not required. If appropriate, the ACP process identifies and engages family and/or friends to understand and support the patient's care plan and preferences.

The CPT billing codes for advance care planning provide reimbursement in any clinical setting and a 20% cost-sharing (copay/deductible) applies for the patient, as it does for other Part B medical services. The only situation where there is no cost-sharing is when ACP takes place as part of an Annual Wellness Visit (AWV) as it is then considered a preventive service.

However, many ACP discussions occur outside of the AWV--with oncologists or cardiologists, during primary care visits, or in the hospital during an acute illness. In those situations, the 20% cost-sharing *is* charged, which can be $50 or more depending on the specialist or setting. CMS claims data from 2017, the last year for which such data has been analyzed, showed a total of $104.5 million in ACP cost-sharing, which represents a sizable cost for patients.

Unfortunately, ensuring that ACP counseling is offered and voluntarily accepted at the appropriate time for an individual with a serious illness is not dependent solely on whether there are CPT codes to pay health care professionals for the counseling service they provide.

The patient cost-sharing for the ACP process has become a barrier, which disproportionately affects Black and Hispanic communities. A 2020 report by ASPE on ACP identified cost-sharing as a key barrier to ACP access, and an important 2021 study in Health Affairs of ACP billing code usage showed that BIPOC communities engage less often in ACP as part of an AWV and, therefore, are charged cost-sharing more often. Previous evidence showed ACP is already less likely to occur among these groups, so adding a financial cost further impedes access to an important and beneficial service. The most recent ACP study in Health Affairs confirmed that concerns about cost-sharing prevent some providers from billing these codes. This is clearly a

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(202) 930-0610 · www.TheCTAC.org

health care equity issue with ACP cost-sharing disproportionately affecting populations who often also lack access to preventive care.

What measures can be taken to eliminate the cost-sharing burden that prevents this patient population from taking advantage of the benefits advanced care planning provides?

C-TAC'S BLUEPRINT FOR CHANGE

C-TAC became aware of the cost-sharing issue from its members and partners. For three Congresses we have educated Members and staff about the need to address the cost-sharing issue. Senator Warner, Representative Blumenauer, and many others have advocated for this and other serious illness care policy changes (Patient Choice and Quality Care Act of 2017). The new evidence regarding the resulting care inequity should now serve as a tipping point for action.

While some private payors currently waive the cost-sharing, this varies by payor and is not an option in Medicare. In 2020, C-TAC attempted to have ACP declared a preventive service, which would eliminate the cost-sharing, by applying to the U.S. Preventive Services Task Force (USPSTF), the body responsible for designating such services. Unfortunately, the USPSTF declined to address this issue because Medicare already supports counseling for ACP as a preventive service in the AWV, and the USPSTF did not want to duplicate the work and recommendations of another agency.

C-TAC then appealed to CMS to remove the cost-sharing, but both CMS and the Congressional Research Service confirmed that CMS lacks statutory authority to do so.

Therefore, C-TAC is again pursuing federal legislation to remove the cost-sharing whenever ACP occurs. ***We believe that ACP counseling is a preventive service in any context and should never carry any cost-sharing and individuals should not be deprived of this service because of its cost.*** Interestingly, there have been legislative proposals in the past that would have promoted ACP participation by reimbursing patients up to $75 for an ACP discussion.

A better way to promote ACP is to remove the cost-sharing barrier entirely. C-TAC will continue to work with Congress to support new legislation that removes cost-sharing to make ACP implementation equitable for all Americans.

We call on Congress to:

- Sponsor federal legislation to remove patient co-payments or cost-sharing for all Medicare beneficiaries for advance care planning counseling regardless of whether it is provided during an Annual Wellness Visit.
- Sponsor other ACP legislation, including proposals for:
  - expanding the provider types that can carry out and get paid for these services under Medicare, to include appropriately trained or experienced clinical social workers
  - removing portability barriers to ensure wishes are honored across state lines
  - implementing standards for including ACP documents within an individual's electronic medical record
  - funding for on-line consumer and provider information and resources on ACP, as well as a culturally and linguistically appropriate public and provider national educational campaign
  - supporting a permanent expansion of the pandemic-related flexibility under Medicare to allow for reimbursement of phone-based, audio-only ACP services at equal reimbursement and with the home as an originating site