



Protecting Access to Medical Care (PAMA)-Appropriate Use Criteria (AUC) program: impact on interventional radiologists.

Background:

A SIR member recently expressed concern because his administrative staff notified him that the Centers for Medicare and Medicaid Services (CMS)'s upcoming Appropriate Use Criteria (AUC) consultation mandate has determined that radiologists are not considered "authorized ordering physicians. "

Starting in 2023, CMS will require treating physicians (or their clinical staff) to consult a qualified Clinical Decision Support Mechanism (qCDSM) before ordering advanced diagnostic imaging for outpatient services (regardless of location – observation, etc.). The interpreting radiologist/ imaging facility will be responsible for submitting information on each claim form to indicate specific qCDSM consulting by the ordering provider , as well as the level of adherence to qCDSM guidance, through the use of G-codes and modifiers. Both technical and professional reimbursement may be withheld for advanced diagnostic imaging that does not meet claim submission requirements.

The program specifically indicates that the treating physician and NOT the imaging provider must consult a qCDSM. There is language in the requirement that states a radiologist should not be the one consulting the qCDSM, but also language that references the *interpreting* radiologist or the radiologist *protocolling* the exam, not the treating physician (who may or may not be a radiologist by training).

To clarify the Impact of PAMA-AUC on IR, we reached out to SIR Counsel Robert Portman, Esquire with these questions:

- Does CMS make the distinction between diagnostic radiology and interventional radiology when they use the term " radiologist"?
- Are radiologists considered authorized ordering physicians?

We received the following opinion from Rebecca Burke, Esquire- Counsel at Powers, Pyles, Sutter & Verville, PC – Healthcare Reimbursement Practice:

" Medicare policy on this is not entirely straightforward. Medicare regulations at 42 CFR § 410.32 provide that diagnostic tests may only be ordered "by the physician who is treating the beneficiary." According to CMS Guidance, CMS would consider a radiologist to be a treating physician when performing "a therapeutic interventional procedure." In contrast, "a radiologist performing a diagnostic interventional or diagnostic procedure is not considered a treating physician." Medicare Benefits Policy Manual Ch. 13, § 80.6.1 (attached). In the context of the "appropriate use" mandate, the ordering physician is the one required to consult a qualified Clinical Decision Support Mechanism (qCDSM) but it is the furnishing physician who is required to report on the claim that the qCDSM was consulted. Social Security Act § 1834(q); 42 CFR § 414.94. There was voluminous discussion, in the Federal Register, during the rulemaking process related to AU, but very little that addresses what specialties of physicians may or may not order procedures or consult appropriate use criteria. Specifically, other than the manual

guidance cited above that pre-dates the AU rulemaking, there is no specific discussion of interventional radiology procedures. There is one statement by CMS in the 2022 final Medicare physician fee schedule rule explaining that “unless also serving as ordering professional, the furnishing professional may not consult AUC on behalf of or in place of the ordering professional.” This statement by CMS acknowledges that there may be situations in which the ordering and furnishing professional would be the same. In addition, 42 CFR 414.94 which implements the AU statute, requires that the furnishing physician report on the claim form “the NPI of the ordering professional who consulted specified applicable AUC . . . if different from the furnishing professional.” Thus, CMS implicitly recognizes that the ordering and furnishing professional can be one in the same. This would seem to permit an interventional radiologist to both order and furnish a procedure. However, as noted previously, Medicare manual instructions would only consider a radiologist to be the ordering physician if the procedure is therapeutic rather than diagnostic. I would note, also, that if an interventional radiologist is performing a therapeutic procedure it may not come within the definition of “advanced diagnostic imaging service” for purposes of the AU program. In contrast, if a radiologist (including an interventional radiologist) is performing a diagnostic procedure, then Medicare policy seems to state that they should not be the physician who orders the procedure. “

In answer to your questions:

1. Does CMS make the distinction between diagnostic radiology and interventional radiology when they use the term “radiologist”? **No. It distinguishes based on the role of the provider (i.e. diagnostic or therapeutic), not the individual.**
2. Are “radiologists” considered authorized ordering physicians? **Yes, if they are performing a therapeutic procedure** or serving in the role as a treating physician
3. Should we consider preparing interventional radiologists for this new CMS requirement? **To the extent that interventional radiologists also order diagnostic services, then it would be appropriate for SIR members to notify ordering physicians of their responsibility to consult a CDSM.**

Should additional information be desired, feel free to reach out to Ashley Maleki, CPC, CPMA, SIR Manager of Coding and Reimbursement at amaleki@sirweb.org.