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The Virginia Society for Pathology (VSP) has become aware of a new Cigna policy "Modifier 26 – Professional Component," effective July 10, 2021, which will deny reimbursement for CPT codes "billed with modifier 26 when applied inappropriately based on the Centers for Medicare & Medicaid Services (CMS) National Physician Fee Schedule." The VSP urges Cigna to reconsider this policy and to continue payment for the professional component of clinical pathology ("PC of CP") services for all pathologists. As the representative organization of board-certified pathologists in the Commonwealth of Virginia, the VSP serves its community by providing education and information on new research to pathologists in the Commonwealth.

The proposed policy hinders patient access to pathology services through lack of payment for pathology and laboratory services. Now more than ever, patients and their treating physicians appreciate their reliance on the expertise of pathologists and the availability of appropriate testing. The PC of CP services are critical to the reliable and accurate diagnosis and treatment of patients, particularly in delivery systems increasingly reliant upon care coordination, integration, and population management.

Pathologists as directors of hospital laboratories spend a significant amount of time and effort fulfilling their responsibility for quality laboratory services to their patients and their fellow practitioners. For example, clinical pathology services include development, approval and evaluation of appropriate test methods (including instrumentation, reagents, standards, and controls), pre- and post-analytical oversight, and direct involvement with technologists and clinical colleagues to ensure prioritization and proper response to test results. During the COVID-19 public health emergency, pathologists in hospitals and independent laboratories around the country have been responsible for developing and/or selecting test methodologies, validating and approving testing for patient use, and expanding the testing capabilities of the communities they serve to meet emergent needs.

The pathologist is also professionally responsible and legally accountable for their laboratory's results. In preparation for this responsibility, pathologists complete a specific medical residency program. Federal certification standards and The Joint Commission standards also require certain professional, organizational, and administrative services be provided in the clinical laboratory to assure quality laboratory services to patients. Clinical pathologists assure compliance with all laboratory regulatory and accreditation standards. In fact, pathologists are uniquely positioned to assist in adding value to patient care and controlling costs through application of evidence-based approaches. The influence of all these pathology services on clinical decision-making is pervasive and they constitute a critical infrastructure and foundation appropriate care. The medical necessity of these services, provided by the pathologist-director, has justified their recognition by the CMS as described below. For Cigna to discontinue reimbursement for these services will thus not only prove detrimental to patients, and to the integrated delivery of care to which laboratory diagnostic services are central, but is also inconsistent with the implied rationale for this Cigna policy, which disingenuously references the CMS reimbursement criteria out of context of the CMS reimbursement mechanism. The CMS recognizes the PC of CP services by their inclusion in the Part A payment Medicare makes to hospitals for each patient. For each patient, Medicare pays the hospital based on the patient's diagnosis related group or DRG. A payment amount is assigned to each DRG, which is for the full spectrum of services received by the patient, including PC of CP services. Hospitals are then to pay pathologists for such services at fair market value for such services. Additionally, there are several clinical pathology procedures that Medicare reimburses under Part B. Further, actual CPT language and guidelines allow for the use of the -26 modifier as a legitimate mechanism to describe the professional component of clinical pathology services for non-Medicare



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patients. Certain procedures, including clinical pathology services, are a combination of a physician professional component and a technical component. For procedures with both a technical and professional component, the American Medical Association (AMA) recognizes the use of the -26 modifier when the professional component of the procedure is being reported separately. The -26 modifier is used to describe the physician professional services in those instances when the physician is only billing for the professional component and the facility is reporting the technical component. In the first article published in the CPT Assistant, Volume 9, Issue 5, May 1999, the AMA states that the use of the -26 modifier is appropriate when the physician is billing separately for the professional component of a laboratory test. The AMA CPT additionally discusses the use of the -26 modifier within their molecular pathology section on page 600 of the 2021 CPT Professional Edition on how to bill the professional component of molecular pathology services. "The results of the procedure may require interpretation by a physician or other qualified health care professional. When only the interpretation and report are performed, modifier 26 may be appended to the specific molecular pathology code." As described above, discontinuing reimbursement for PC of CP services billed with modifier 26 is inconsistent with its recognition by CMS and CPT.

In conclusion, we urge Cigna to revisit and reverse its proposed policy of discontinuing payment for PC of CP services in the Commonwealth of Virginia. This policy is inconsistent with CMS practices as well as AMA/CPT guidance, and is detrimental to our patients, your beneficiaries. For any questions we encourage you to reach out to the VSP Executive Office at vsp@wjweiser.com.

Sincerely,

Marigny B. Roberts, MD, FCAP
President, Virginia Society for Pathology