

**Advocate to Succeed –
Together we Can Win**



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Jeff Jacobs, MA

***ASCP Vice President, Public Policy and
Government Relations***

American Society for Clinical Pathology

It was a very good year.



Why?

Pod Labs: Stopped

Competitive Bidding: Stopped

Clinical Laboratory Fee Schedule: Increased

Sustainable Growth Rate: Temporary Respite

How?

Understanding politics.

Making the right argument, with the power of numbers.

Pod Labs Stopped



stoppodlabsnow@ascp.org

Anti-Mark-Up Regulations Promulgated in January 2008

Lawsuit to prevent CMS from enforcing the rule on anatomic pathology services dismissed

Continued vigilance against weakening anti-markup regulations

Formation of New Pathology Coalition – IOAS

What ASCP Did: Capitol Hill



**Multiple Visits to Congressional Offices
(legislative component to regulatory campaign)**



What ASCP Did: CMS



Multiple Targeted HHS Visits



CMS Rule: Anti-markup 2008 Original Construct



The anti-markup provisions promulgated in 2008 stopped pod labs from bilking Medicare.

Sec. 414.50, as revised at 72 FR 66222, except with respect to the technical component of a purchased diagnostic test and with respect to any anatomic pathology diagnostic testing services furnished in space that: is utilized by a physician group practice as a “centralized building” (as defined at Sec. 411.351 of this chapter) for purposes of complying with the physician self-referral rules; and does not qualify as a “same building” under Sec. 411.355(b)(2)(i) of this chapter.
DATES: The provisions of this final rule are effective January 1, 2008.

CMS Rule: Anti-Markup 2009 Revisions Undermine Success



Excluded Diagnostic Tests that are Not Subject to
Physician Supervision (Medicare/CLIA)

May Undermine 2008 Anti-Mark-Up Rule for Anatomic Pathology
Original Rule focused on Anatomic Pathology

Exemption on Supervision *appears* to exempt Anatomic because
neither CLIA nor Medicare Requires Supervision (Histology)

Additional Concerns:

HHS Leadership

CMS Staff Turnover

Are Further Revisions Necessary?

Are We at End of Regulatory Road?

Medicare Improvement Act



Competitive Bidding



Clinical Laboratory Fee Schedule

**Sustainable Growth Rate: Medicare Physician
Fee Schedule**

Repeal of Competitive Bidding



HHS proposed Competitive Bidding Demonstration Project for Laboratory Services

ASCP representative placed on project advisory group

ASCP contributed financially to the Scripps lawsuit to enjoin demonstration project

Lawsuit successful

Legislation in both House and Senate

Multiple Action Alerts (15,000+ contacts with lawmakers)

ASCP direct meetings with Baucus & Grassley staff

Repeal of project included in Medicare package

Passage ensured the project is finally dead!



Clinical Laboratory Fee Schedule (CLFS)



CLFS Update: 4.5% increase for 2009 (*First update in 15 years*)

CLFS Updates to be reduced by 0.5% over 2009 to 2013

The money saved between 2008-2013 is \$600 million. Labs will receive the full CPI update beginning in 2014.

The savings to Medicare over the 10-year period are projected to be \$2.0 billion because the baseline on which our CPI is calculated will be lower in 2014-2018 than it otherwise would have been under current law.

Sustainable Growth Rate (SGR)



18-month Medicare physician payment fix:

- stops 10.6% cut scheduled for July 2008;
- stops an additional cut of 5% projected for January 2009;
- continues existing 0.5% increase through December 2008;
- and provides an additional 1.1% update for 2009.

Congressional Budget Office has estimated a 1% update for 2009 could lead to a 21% cut in January 2010.

Law establishes Medicare Improvement Fund to be used to avert the 2010 physician payment cut.

BUT: Action only postpones real solution.

The Future Battle: Within the “House of Medicine”



Revisiting Stark Self-Referral Laws

Specialty organizations are very well organized

**American Medical Association will side with
specialists**

State Medical Societies may side with specialists

Stark-Related Advocacy: ASCP Goals



Advocacy with CMS:

Exclude anatomic pathology from Stark in-office ancillary services exception

Do not dilute anti-mark-up rule

CMS should address use of in-house pathologists/technologists

Advocacy with US Congress:

Explore revisiting Stark self-referral laws

Formation of New Coalition: In-Office Ancillary Services (IOAS)



College of American Pathologists



American Clinical Laboratory Association



The Power of Grassroots: ASCP e-Advocacy Center



GOAL: 130,000 Member Organization + Principled Arguments + Savvy Government Relations = Effectiveness in Washington



To Date: Since 2004 over 12,000 individuals have sent over 50,000 messages on legislative and regulatory issues to key decision makers.

Key Issues: Stop Pod Labs Now; Thaw the [CLFS] Freeze; Repeal Competitive Bidding; Fix the SGR; Address the Workforce Shortage; Direct Billing at State Level; PEPFAR Reauthorization

Future Plan: Maximize power of Center; Connect with grasstops operation; Incorporate into communication plan and achieve Goal

ASCP e-Advocacy Center



Very simple;
Select issue;
Enter zip code;
Modify, add message;
Hit send.
Very successful.

A screenshot of a web browser displaying the ASCP e-Advocacy Center. The browser's address bar shows the URL 'http://www.ascp.org/Advocacy/eAdvocacyCenter.aspx#'. The page header includes the ASCP logo and the text 'American Society for Clinical Pathology'. A navigation menu on the left lists various site sections, with 'Advocacy' highlighted. The main content area is titled 'ASCP eAdvocacy Center' and contains text describing the service: 'ASCP's state-of-the art, customized eAdvocacy Center features an array of easy-to use advocacy tools, making advocacy easy for the ASCP's busy members. With just a few mouse clicks, ASCP members have immediate access to their members of Congress, and the ability to educate and influence those lawmakers on issues affecting their work.' It also mentions features like 'Mega-Vote', 'Tell-a-Friend', and a 'click here' link. On the right side, there is a 'Login' button, a 'Google Custom Search' box, and several utility buttons like 'Pay 2008 Dues', 'Free CE', 'JobFinder', 'Board of Registry', 'Bookmarks', and 'Shopping Tools'. At the bottom right, there is a 'Chat Online With Customer Service' button.

Crisis or Opportunity?



We have been rudely awakened.

We did respond - and won this round.

What else should we be doing as a Professional Society, as a Profession, and as Individuals?



What can we all do?



Engage in the large issues affecting health care.

Build bridges with those institutions that can influence our future.

Collaborate in improving patient care and patient outcomes.

Advocate to ensure our Patients have access to quality pathology services

Pathology is not a commodity; it is a service.