

September XX, 2020

The Honorable Alex M. Azar, II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, M.D. 21244

Dear Secretary Azar and Administrator Verma:

Thank you for your efforts in addressing the financial struggles physicians and other health care providers are facing during this public health emergency. Building on these efforts, we write to express concern over recent payment changes for certain health care professionals, who are now bracing for harmful payment cuts that could jeopardize patient access to medically necessary services. The reductions are primarily driven by new Medicare payment policies for office and outpatient visits that CMS will implement on January 1, 2021, as announced in the *CY 2021 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies*.¹ Drastic cuts caused by changes to these visit codes will further strain a health care system that is already stressed by the COVID-19 pandemic. We, therefore, ask CMS and HHS to, where possible, engage with stakeholders in establishing fair and equitable payment solutions that address Medicare payment cuts at this time, while at the same time moving forward with policies to increase payments to primary care and other office-based specialties.

Due to the COVID-19 pandemic, physicians and other healthcare providers continue to face unprecedented public health and economic challenges. For example, because of their commitment to *do no harm*, physician practices nationwide followed CMS recommendations to delay elective surgeries and other nonessential services, causing significant cash-flow problems. According to the Medical Group Management Association, 97 percent of practices have experienced a negative financial impact directly or indirectly related to COVID-19, with practices reporting a 55 percent decrease in revenue and a 60 percent decrease in patient volume since the beginning of the spread.² Another recent study found that the number of visits to ambulatory practices declined nearly 60 percent between February 1 to April 16 — with larger declines among surgical and procedural specialties.³ The authors warned that if left unchecked, the erosion of outpatient capacity will undermine needed care, especially for patients with acute and chronic conditions. Additionally, a recent survey of surgeons found that one-in-three private surgical practices stated that they are already at risk of closing permanently due to the financial strain of the COVID-19 crisis. Many face

¹ Centers for Medicare and Medicaid Services, *CY 2021 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies* (CMS-1734-P), August 17, 2020.

² Medical Group Management Association, *COVID-19 Financial Impact on Medical Practices*, April 13, 2020, <https://www.mgma.com/resources/government-programs/covid-19-financial-impact-on-medical-practices>.

³ The Commonwealth Fund, “The Impact of COVID-19 Pandemic on Outpatient Visits: A Rebound Emerges,” May 19, 2020, <https://www.commonwealthfund.org/publications/2020/jun/impact-covid-19-pandemic-outpatient-visits-practices-adapting-new-normal>.

difficult financial decisions and are responding by either cutting their pay, taking on debt, or laying off or furloughing employees.⁴ Finally, it is not just physician practices in distress. Data also reflect that 38 percent of physical therapy owners/partners reported that revenue had decreased 76 to 100 percent in the early phases of the pandemic, with another 34 percent reporting declines of 51 to 75 percent.⁵

While patients are now beginning to seek medical care and elective surgeries have resumed, physicians are only now starting to work through the backlog of cases. Furthermore, patients remain reluctant to seek medical attention for fear of contracting the coronavirus. Thus, health care professionals are not able to fully recoup lost revenue, and practice costs remain a problem, given already tight operating margins. As documented by one physician specialty organization, 79 percent of its members considered handling the “catch up” demand to be their greatest challenge in the future.⁶ Unfortunately, the upcoming Medicare Physician Fee Schedule (PFS) reimbursement cuts compounds these problems, further harming their efforts to regain financial stability and continue to meet the needs of patients.

Beyond the challenges caused by the pandemic, it is important to note that Medicare payments have failed to keep up with inflation since the inception of the PFS in 1992. The planned decrease in the 2021 conversion factor will be below the 1994 conversion factor of \$32.9050 — which is worth approximately \$58.02 today.⁷ Other sectors of the health care delivery system do not face this same problem, as hospitals and others do not operate under a budgetary cap and receive market-based payment updates. It is also important to point out that other payers, including in the private sector, use the Medicare PFS when setting payment rates. Therefore, the cuts have far-reaching consequences well beyond the Medicare program.

We understand that the statutory budget neutrality requirements of the PFS require CMS to offset payment increases made for certain services by reducing payments to other services. We agree and commend CMS for improving payments for office visit services provided by primary care and other office-based physicians, increasing access to care through telehealth and other services involving communications technology, and proposing to establish new payment rates for immunization administration services. However, we have grave concerns that these increases result in a corresponding loss of reimbursement for those physician specialties, therapists, and other healthcare providers who have been among the hardest hit by the COVID-19 pandemic.

Given the effects of the COVID-19 pandemic, we believe you have the regulatory authority to immediately address these inequities outside of PFS. There is also the need to consider how the outbreak will be in the fall/winter months and if postponing certain elective procedures will go back into effect, per CMS’ recommendations.

Finalizing the PFS without addressing certain inequities using other funding mechanisms will result in access issues for Medicare beneficiaries and further drive independent physicians and other health

⁴ Survey conducted by the independent public opinion research firm, Brunswick Insight. The online survey of 5,244 surgeons was conducted between May 11-20, 2020. https://www.surgicalcare.org/wp-content/uploads/2020/06/SCC_Member_Survey_Data_06172020_FINAL.pdf.

⁵ American Physical Therapy Association, Impact of COVID-19 on the Physical Therapy Profession Report, June 2020, <https://www.apta.org/contentassets/15ad5dc898a14d02b8257ab1cdb67f46/impact-of-covid-19-on-physical-therapy-profession.pdf>.

⁶ American Academy of Orthopaedic Surgeons, Report: Understanding AAOS Member Needs During the COVID-19 Pandemic, May 12, 2020, <https://www.aaos.org/globalassets/about/covid-19/voice-of-the-orthopaedic-surgeon.pdf>.

⁷ Using the U.S. Bureau of Labor Statistics inflation calculator, the conversion factor in 1994, \$32.9050, is worth approximately \$58.02 today. This means that the proposed CY 2021 cut of the conversion factor to \$32.2605 is an even steeper cut when adjusted for inflation and is by far the lowest conversion factor since its inception in 1992. https://www.bls.gov/data/inflation_calculator.htm.

care providers towards market consolidation. In addressing this issue, we strongly encourage HHS and CMS to work collaboratively with stakeholders, where possible, and continue to make policies that results in better accessibility, quality, affordability, empowerment, and innovation.

While we understand that legislative action is also required to address this issue, given the January 1, 2021 effective date, we would ask you to take immediate actions to delay or mitigate these cuts while allowing the scheduled increases to go into effect. This approach will give Congress sufficient time to develop a meaningful solution and to address these looming needs.

Thank you for your consideration of this issue.

Sincerely,