

August 15, 2019

Seema Verma, MPH  
Administrator  
Centers for Medicare & Medicaid Services  
Attention: CMS-1715-P  
P.O. Box 8011  
Baltimore, MD 21244-1850

Re: Policies for CY 2021 for Office/Outpatient E/M Visits in the CY 2020 Medicare Physician Fee Schedule Proposed Rule

Dear Administrator Verma:

On behalf of the undersigned 53 organizations, we write to voice our strong opposition to the Centers for Medicare & Medicaid Services' (CMS) proposal, as set forth in the calendar year (CY) 2020 Medicare Physician Fee Schedule proposed rule, not to incorporate into the global codes the adjusted values for the revised office/outpatient evaluation & management (E/M) codes. By failing to adopt all the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC)-recommended work and time values for the revised office visit E/M codes for CY 2021, including the recommended adjustments to the 10- and 90-day global codes, CMS improperly proposes to implement these values in an arbitrary, piecemeal fashion.

**It is inappropriate for CMS to move forward with the proposal to not apply the RUC-recommended changes to global codes.** If CMS finalizes the proposal to adjust the office/outpatient E/M code values, the agency must apply these updated values to the global codes. It is imperative that CMS take this crucial step because to do otherwise will:

- ***Disrupt the relativity in the fee schedule:*** Applying the RUC-recommended E/M values to stand-alone E/Ms, but not to the E/Ms that are included in the global surgical package since the inception of the fee schedule, will result in disrupting the relativity between codes across the Medicare physician fee schedule. Changing the values for some E/M services, but not for others, disrupts this relativity, which was mandated by Congress, established in 1992, and refined over the past 27 years. Indeed, since the inception of the fee schedule, E/M codes have been revalued three times — in 1997 (after the first five-year review, in 2007 (after the third five-year review) and in 2011 (after CMS eliminated consult codes and moved work RVUs into the office visit codes). When the payments for new and established office visits were increased in these instances, CMS also increased the bundled payments for these post-operative visits in the global period.
- ***Create specialty differentials:*** Per the Medicare statute, CMS is prohibited from paying physicians differently for the same work, and the “Secretary may not vary the . . . number of relative value units for a physicians’ service based on whether the physician furnishing

the service is a specialist or based on the type of specialty of the physician.”<sup>1</sup> Failing to adjust the global codes is tantamount to paying some doctors less for providing the same E/M services, in violation of the law.

- ***Run afoul of section 523(a) of MACRA:*** CMS points to the ongoing global code data collection effort as a reason for not applying the RUC-recommended changes to office visit E/M codes to global codes. In addition, the Agency states that it is required to update global code values based on objective data on all of the resources used to furnish the services included in the global package. These arguments conflate two separate issues. The issue that CMS raises regarding MACRA legislation is not related to maintaining relativity across the fee schedule based on current data in the CMS work/time file. In fact, section 523(a) specifically authorizes CMS to make adjustments to surgical services, notwithstanding the mandate to concomitantly undertake the MACRA-mandated global code data collection project.
- ***Ignore recommendations endorsed by nearly all medical specialties:*** The RUC, which represents the entire medical profession, voted overwhelmingly (27-1) to recommend that the full increase of work and physician time for office visits be incorporated into the global periods for each CPT code with a global period of 10-day, 90-day and MMM (maternity). The RUC also recommended that the practice expense inputs should be modified for the office visits within the global periods.

**Again, we strongly urge CMS not to finalize a policy that fails to apply the RUC-recommended changes to both stand-alone office visit E/M codes and the E/M component of the global codes.** Our organizations will submit more detailed comment letters prior to the comment deadline, but the gravity of this particular proposal warrants an immediate response.

Thank you for your consideration of these comments, and we welcome continued dialogue with CMS on this critical issue.

Sincerely,

American College of Surgeons  
American Academy of Dermatology Association  
American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Ophthalmology  
American Academy of Otolaryngology-Head and Neck Surgery  
American Academy of PAs  
American Academy of Physical Medicine and Rehabilitation  
American Association of Hip and Knee Surgeons  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Cardiology  
American College of Emergency Physicians

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<sup>1</sup> 42 U.S. Code §1395w-4(c)(6).

American College of Mohs Surgery  
American College of Obstetricians and Gynecologists  
American College of Osteopathic Surgeons  
American Medical Association  
American Orthopaedic Foot and Ankle Society  
American Orthopaedic Society for Sports Medicine  
American Pediatric Surgical Association  
American Podiatric Medical Association  
American Shoulder and Elbow Surgeons  
American Society for Surgery of the Hand  
American Society of Anesthesiologists  
American Society of Breast Surgeons  
American Society of Cataract & Refractive Surgery  
American Society of Colon and Rectal Surgeons  
American Society of Dermatologic Surgery Association  
American Society of General Surgeons  
American Society of Metabolic and Bariatric Surgery  
American Society of Plastic Surgeons  
American Society of Retina Specialists  
American Spinal Injury Association  
American Urogynecologic Society  
American Urological Association  
Congress of Neurological Surgeons  
Heart Rhythm Society  
J. Robert Gladden Orthopaedic Society  
Limb Lengthening and Reconstruction Society  
Musculoskeletal Infection Society  
Musculoskeletal Tumor Society  
North American Spine Society  
Orthopaedic Rehabilitation Association  
Orthopaedic Trauma Association  
Pediatric Orthopaedic Society of North America  
Ruth Jackson Orthopaedic Society  
Scoliosis Research Society  
Society for Maternal-Fetal Medicine  
Society for Vascular Surgery  
Society of American Gastrointestinal and Endoscopic Surgeons (SAGES)  
Society of Gynecologic Oncologists  
The Hip Society  
The Knee Society  
The Society of Thoracic Surgeons

CC: Demetrios Kouzoukas, Principal Deputy Administrator for Medicare and Director, Center for Medicare  
Carol Blackford, Director, Hospital and Ambulatory Policy Group  
Gift Tee, Director, HAPG, Division of Practitioner Services