

Congress of the United States
Washington, DC 20515

September 27, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Verma:

We are writing to express our strong opposition to a provision in the 2020 Medicare Physician Fee Schedule proposed rule. Specifically, we are very concerned with the proposal to not include in the global codes the adjusted values for the revised office/outpatient evaluation and management (E/M) codes. We believe that CMS is arbitrarily implementing the E/M adjustments in a manner that runs counter to current law. Should CMS finalize its proposal to adjust the office/outpatient E/M code values, the agency must also apply these updated values to the global codes.

First, changing the values for some E/M services but not for others disrupts the relativity mandated by Congress as part of the Omnibus Budget Reconciliation Act (OBRA) of 1989 (P.L. 101-239). Since the fee schedule was established, E/M codes have been revalued three times. Each time the payments for office/outpatient visits were increased, CMS also adjusted the bundled payments to account for the increased values of the E/M portion of the global codes.

Additionally, the Medicare statute specifically prohibits CMS 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."¹ Failing to adjust the global codes as proposed is equivalent to paying some physicians less for providing the same E/M services.

Finally, through the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA; P.L. 114-10), Congress required CMS to collect data on the number and level of visits furnished in a global period. Although CMS may have concerns regarding applying the E/M changes to global codes while data collection is ongoing, as supporters of section 523(a) of MACRA, we believe nothing in the statute precludes CMS from making adjustments to surgical services before the collection is complete.

¹ 42 U.S. Code §1395w-4(c)(6).

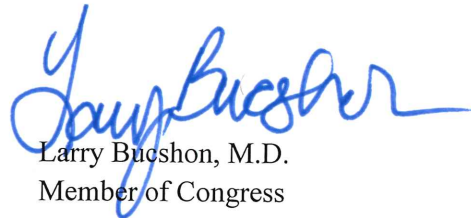
We respectfully request that if CMS adjusts the office/outpatient E/M codes, then such adjustments should also be made to the E/M component of the global codes in order to maintain the relativity in the Medicare Physician Fee Schedule and to ensure that physicians are paid the same for providing equivalent services.

Thank you for your consideration, and we look forward to working with you on this issue.

Sincerely,



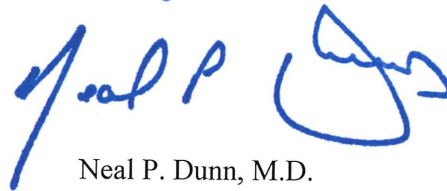
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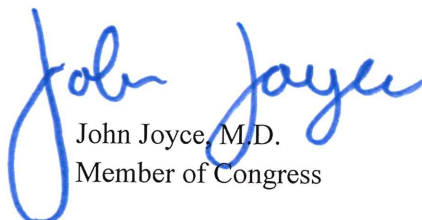
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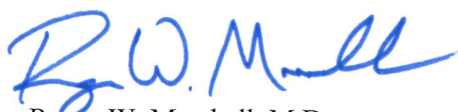
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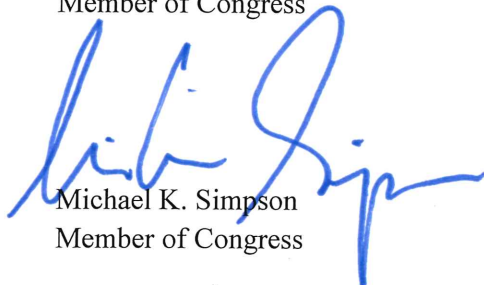
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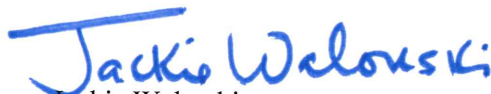
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