

December 14, 2020

Representative Nancy Pelosi  
Speaker of the House

Representative Kevin McCarthy  
House Minority Leader

Senator Mitch McConnell  
Senate Majority Leader

Senator Charles Schumer  
Senate Minority Leader

Senator Charles Grassley  
Chairman, Finance Committee

Senator Ron Wyden  
Ranking Member, Finance Committee

Representative Richard Neal  
Chairman, Ways and Means Committee

Representative Kevin Brady  
Ranking Member, Way and Means Committee

Representative Frank Pallone  
Chairman, Energy and Commerce Committee

Representative Greg Walden  
Ranking Member, Energy and Commerce  
Committee

Dear Congressional Leadership,

On behalf of the 21 undersigned organizations representing surgeons and anesthesiologists across the United States, we strongly urge you to take action before Congress adjourns for the year to prevent devastating Medicare physician payment cuts scheduled to be implemented on January 1, 2021. We understand that the year-end legislative package is still coming together and may incorporate COVID-19 relief — including additional funds for the Provider Relief Fund (PRF). To this end, we recommend that you specifically allocate PRF resources to offset the costs associated with preventing these Medicare cuts prior to taking effect.

Surgeons and anesthesiologists across the country are still struggling with the financial impact of COVID-19. As the pandemic continues to rage throughout the country, hospitals are once again at capacity, and surgeons are forced to suspend elective and non-essential services. It will be at least one or two years before surgical practices fully recover from the economic effects of the pandemic, and surgeons and anesthesiologists simply cannot absorb additional Medicare payment cuts, which could jeopardize patient access to medically necessary services.

The surgical community has proposed a 3-point plan for preventing these cuts (see attached letter), including the adoption of H.R. 8702/S. 5007, the Holding Providers Harmless From Medicare Cuts During COVID-19 Act of 2020. We estimate that a one-year cost of this plan would be approximately \$3.5-4 billion. While we certainly appreciate that Congress is considering an additional \$35 billion for the PRF, there is no guarantee that any of these resources will flow directly to surgeons, anesthesiologists and their practices. Allocating some of this money to prevent the Medicare payment cuts is a more direct and targeted way to ensure immediate financial relief to our nation's surgeons.

We thank you for your consideration of this request and for your continued work to address the devastating Medicare physician payment cuts.

Sincerely,

American College of Surgeons  
American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Ophthalmology  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Osteopathic Surgeons  
American Orthopaedic Foot & Ankle Society  
American Society of Anesthesiologists  
American Society of Colon and Rectal Surgeons  
American Society for Metabolic and Bariatric Surgery  
American Society for Surgery of the Hand  
American Society of Cataract and Refractive Surgery  
American Society of Plastic Surgeons  
American Society of Retina Specialists  
American Urogynecologic Society  
Congress of Neurological Surgeons  
Society for Vascular Surgery  
Society of American Gastrointestinal and Endoscopic Surgeons  
Society of Gynecologic Oncology  
The American Society of Breast Surgeons  
The Society of Thoracic Surgeons

December 4, 2020

Representative Nancy Pelosi  
Speaker of the House

Senator Mitch McConnell  
Senate Majority Leader

Senator Charles Grassley  
Chairman, Finance Committee

Representative Richard Neal  
Chairman, Ways and Means Committee

Representative Frank Pallone  
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Senator Ron Wyden  
Ranking Member, Finance Committee

Representative Kevin Brady  
Ranking Member, Ways and Means Committee

Representative Greg Walden  
Ranking Member, Energy and Commerce Committee

Dear Congressional Leadership:

On behalf of the 20 undersigned organizations representing surgeons across the United States, we write to you today regarding significant concerns with the devastating Medicare physician payment cuts scheduled to be implemented on January 1, 2021. Now that the Centers for Medicare & Medicaid Services (CMS) has published the Calendar Year (CY) 2021 Medicare Physician Fee Schedule (PFS) final rule, physicians and non-physician health care professionals are bracing for harmful payment cuts that will jeopardize patient access to medically necessary services. The reductions are primarily driven by new Medicare payment policies for office and outpatient evaluation and management (E/M) services. Drastic cuts caused by these changes will further strain a health care system that is already stressed by the COVID-19 pandemic.

**Immediate congressional intervention is imperative to prevent the cuts from taking place next month. To prevent these steep cuts, the surgical community is urging Congress to take three steps:**

- **Hold physicians harmless from additional cuts;**
- **Adjust the E/M portion of the global codes; and**
- **Halt the implementation of the G2211 add-on code.**

#### **Hold Physicians Harmless from Additional Cuts**

Taking steps to adjust the post-operative E/M values in the global codes and eliminating the G2211 add-on code will go a long way to mitigate the planned Medicare PFS cuts in 2021. However, for many specialties, additional relief will be necessary to hold physicians harmless from additional cuts. **We urge Congress to incorporate the provisions of H.R. 8702, the Holding Providers Harmless from Medicare Cuts During COVID-19 Act of 2020, into any year-end legislative package.** This bipartisan legislation would provide a payment adjustment to physicians and other health care professionals, ensuring they will not see payment cuts next year, providing specialties facing drastic Medicare payment cuts with a critical lifeline for two years.

#### **Adjust the E/M Portion of the Global Code**

Contributing to the negative impact on surgery is CMS' failure to incorporate the E/M increases into the E/M component of the 10- and 90-day global codes. The agency's continued refusal to adjust the value of 10- and 90- day global codes conflicts with the law as mandated by the Omnibus Budget Reconciliation Act (OBRA) of

1989 (P.L. 101-239), which requires relativity across the Medicare Physician Fee Schedule and specifically prohibits CMS from paying physicians differently for the same Medicare service. **We urge Congress to include S. 4932, the Medicare Reimbursement Equity Act of 2020**, in legislation moving forward this year. This provision would uphold current law and ensure that CMS appropriately pays surgeons for the care they provide by mandating that CMS incorporate the revised E/M values in the global codes.

#### **Halt the Implementation of the G2211 (formerly GPC1X) Add-on Code**

In 2018, CMS proposed restructuring the coding system for office and outpatient visits by collapsing the E/M codes from five to two levels. Because certain specialties would experience payment cuts under this scheme, CMS proposed add-on codes to provide an additional payment — specifically for primary care and certain specialty visits — to minimize payment cuts associated with these code changes. Ultimately, CMS did not move forward with the single payment proposal. However, CMS is still adopting a new G2211 add-on code (formerly GPC1X), even though the agency’s justification for including an add-on code no longer exists. Now, instead of correcting a system that would have resulted in unfair payment reductions, the agency is creating a new coding system that inappropriately discriminates among physician specialties — over-inflating payments to certain specialties and causing steep cuts to others. **Congress should adopt legislation that requires CMS to (a) halt the implementation of the G2211 add-on code and (b) conduct a comprehensive study of the newly revised and valued E/M office and outpatient visit codes to determine whether the add-on code is necessary in light of the structure and values assigned to the revised E/M codes.**

We sincerely appreciate all that you have done to protect access to care during this pandemic. However, without intervention from Congress before the end of the year, these cuts will have devastating impacts on Medicare patients, surgeons, physicians, and other health care professionals who are already struggling to keep their practices afloat.

Thank you for considering our request. We look forward to working together to enact legislation to prevent these payment cuts.

Sincerely,

American College of Surgeons  
American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Ophthalmology  
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