July 16, 2021: National Advocacy Update

2022 Medicare Physician Fee Schedule proposed rule

The Centers for Medicare & Medicaid Services (CMS) released the proposed rule for the 2022 Medicare Physician Fee Schedule. While AMA staff will analyze and develop a summary of the 1,700+ page proposal, it is important to highlight that the 2022 Medicare conversion factor would be reduced by approximately 3.75% from $34.8931 to $33.5848. This is largely a result of the expiration of a 3.75% increase to the conversion factor at the end of calendar year 2021, as averted for 2021 by Congressional action.

The AMA will strongly advocate that Congress avert this significant cut and extend the 3.75% increase for 2022. Please note that the impact table in the proposed rule does not seem to include the 3.75% reduction in the conversion factor.

Access the proposed rule (PDF). Additional resources:

- CMS press release
- Physician Fee Schedule fact sheet
- QPP fact sheet (.ZIP)

Recommendations for the 2022 National Drug Control Strategy

In response to a request from the White House Office of National Drug Control Policy (ONDCP), the AMA recently sent a letter outlining four major recommendations (PDF) for inclusion in the Biden administration's 2022 National Drug Control Strategy, which is currently under development.

- First, the AMA urges the administration to expand access to evidence-based treatment for opioid use disorder and harm reduction services, including naloxone, sterile needle and syringe exchange services and drug checking supplies.
- Second, the AMA wants the administration to use its influence on all health insurance programs that are administered or funded by the federal government to remove the arbitrary restrictions on patients who benefit from opioid therapy.
- Third, the AMA believes that the National Drug Control Strategy would be an effective way to identify and disseminate best practices for reducing drug-related harms and improving

patient outcomes in order to promote greater diffusion of these practices throughout the country.

- Finally, the AMA strongly urges the administration develop and support a national, standardized reporting system for key metrics related to drug use, including fatal and non-fatal overdose.

Together, these four strategies can help move the nation from a crisis framework to a more resilient and sustainable public health framework, while also preventing overdoses, deaths and improving patient outcomes. In addition, the AMA urges that all elements of the 2022 National Drug Control Strategy aim to address health care inequities and social determinants of health.

AMA responds to key questions on telehealth during COVID-19

The AMA recently responded to a set of key questions from the Agency for Healthcare Research and Quality's (AHRQ) Effective Health Care Program aimed at better understanding the utilization of telehealth services during COVID-19. The AMA letter to AHRQ (PDF) answered the telehealth questions based on the Return on Health research, which developed a framework for measuring the value of virtual care during COVID-19 and beyond. AMA shared real-world case studies about telepsychiatry, hypertension digital medicine, teleneurology and telestroke and complex care coordination to address AHRQ's questions on the cost of implementation and return on investment for telehealth.

The AMA also shared findings from the COVID-19 Health Coalition Telehealth Impact Study to address questions about how much the use of telehealth changed from 2019 through 2020, the types of medical problems that are being addressed with telehealth and the types of telehealth interventions and modalities that are being deployed. This study found, for example, that telehealth has largely substituted for in-person care and did not increase the total number of visits, and that telehealth has prevented more costly care as many patients reported they would have gone to urgent care or emergency departments had they not had access to virtual care. Learn more about the material provided to AHRQ (PDF).

AMA expresses concern about OSHA COVID-19 emergency temporary standard

On June 21, the Occupational Safety and Health Administration (OSHA) published the COVID-19 health care emergency temporary standard (ETS) in the Federal Register. This Interim Final Rule (IFR) went into effect the day it was published. In a recent letter (PDF), the AMA expressed serious

concern that the lack of notice and short comment time frame—comments are due Aug. 20—do not give stakeholders enough time to review the IFR and provide meaningful input to OSHA. The letter also raised concerns that the proposed new standards could be duplicative of existing Centers for Disease Control and Prevention guidance, causing confusion among physicians who have already made significant investments in telehealth technology and personal protective equipment for themselves and their staff. The AMA will submit additional comments before Aug. 20 deadline.

President Biden signs executive order promoting competition

On July 9, President Biden signed a new executive order aimed at limiting anticompetitive actions and promoting competition in several sectors, including health care. The “Promoting Competition in the American Economy” executive order includes directives to several federal departments and agencies, including the Department of Health and Human Services (HHS), U.S. Food and Drug Administration (FDA) and Federal Trade Commission (FTC), that could potentially impact issues such as prescription drug pricing and access, hospitals and insurer mergers, use of non-compete clauses in employment contracts and occupational licensing. Broadly, the order notes its opposition to consolidation in any industry and specifically notes concerns about monopoly and monopsony powers in health care markets. Specifically, the order directs the FTC to curtail the use of non-compete agreements and other clauses that may limit employee mobility and to address the use of “unfair occupational licensing restrictions.” The order also includes several directives to HHS, FDA and CMS to promote competition in the prescription drug space aimed at decreasing prescription drug costs and increasing access to generics and biosimilars.

In addition to specific department and agency directives, the order establishes a White House Competition Council that will coordinate, promote and advance federal government efforts to “address overconcentration, monopolization and unfair competition.” The Competition Council’s activities will include overseeing implementation of the administrative actions included in the executive order.

DHS withdraws proposal to eliminate duration of status for J-1 visa holders

The AMA applauds U.S. Department of Homeland Security (DHS)’s withdrawal of the Proposed Rule “Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media.” The AMA opposed this proposed rule and, on Oct. 23, 2020, submitted comments (PDF) voicing dissent and urging DHS to withdraw the proposed rule as it related to J-1 International Medical Graduates (IMG). If implemented this rule would have significantly disrupted the specialty

and subspecialty training of foreign medical graduates by eliminating “duration of status” as an authorized period of stay for J-1 visa holders and replacing it with the program end date.

CMS releases surprise medical billing interim final rule

The HHS, the Department of Labor and the Department of the Treasury (Tri-Agencies), along with the Office of Personnel Management (OPM) released an interim final rule with comment period entitled the Requirements Related to Surprise Billing: Part I (PDF) implementing many of the provisions of the No Surprises Act (NSA) signed into law as part of the Consolidated Appropriations Act, 2021 (PDF) COVID-19 relief bill. The NSA addresses surprise medical billing at the federal level by holding patients harmless from the costs of out-of-network care in certain situations and creating an independent dispute resolution process for determining provider payments. These situations include emergency services, air ambulance services provided by out-of-network providers and non-emergency services provided by out-of-network providers at in-network facilities in certain circumstances. The law also addresses price transparency, provider directories and other patient protections.

The IFR clarifies the Qualified Payment Amount (QPA) by specifying cost sharing calculations for emergency services provided by out-of-network emergency facilities and out-of-network providers and certain non-emergency services furnished by out-of-network providers at certain in-network facilities. In addition, the IFR clarifies certain notice and consent requirements for health care providers and facilities. The AMA is closely reviewing the IFR after submitting comments (PDF) to the Tri-Agencies on the implementation and calculation of the QPA and the QPA audit process, amongst other provisions, as well as comments (PDF) on the independent dispute resolution process and will provide a detailed summary in the coming days. For more information, view CMS’ interim final rule fact sheet.

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