Sept. 2, 2022: National Advocacy Update

International Overdose Awareness Day underscores urgent need for change

“While the number of deaths itself is record setting and gut wrenching to be sure—more than 100,000 in 2021—every single death was somebody’s son or daughter, or husband, wife, friend, family member. And statistics sometimes make us forget about the reality that we’re losing across generations in this preventable epidemic,” said Bobby Mukkamala, MD, immediate past chair of the AMA Board of Trustees and chair of the AMA Substance Use and Pain Care Task Force, in a recent video interview on the growing overdose epidemic.

Aug. 31 marked International Overdose Awareness Day. Dr. Mukkamala highlighted several factors behind the increase in drug-related overdose and death:

1. Illicitly manufactured fentanyl
2. Barriers to evidence-based care for those with a substance use disorder
3. Continued stigma associated with having a substance use disorder or pain

“There are tangible actions that we can take to reduce mortality and improve outcomes,” said Dr. Mukkamala, citing the need to shift the priority away from policymakers’ focus on reducing opioid prescriptions and toward evidence-based treatment and harm reduction services. Despite opioid prescriptions having decreased by nearly 50% nationally in the last decade, every state has experienced significant increases in the number of drug-related deaths.

“This epidemic will not improve unless the focus is on evidence-based overdose prevention and treatment,” said Dr. Mukkamala, who urged policymakers to join the AMA in supporting:

- Prohibiting prior authorization for medication for opioid use disorder
- Enforcement of state and federal mental health and substance use disorder parity laws
- Removing the prescription status of naloxone to make it available over the counter
- Decriminalizing the use of fentanyl test strips and other drug checking supplies
- Eliminating restrictions on syringe service programs
- Investing in pilot programs for overdose prevention sites

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Increasing training for medical students and residents with respect to screening and treatment of substance use disorders

“We’ve had important policy wins but there’s so much more to do. The epidemic is getting worse, and it’s not going to get better until our patients receive evidence-based care. We have the tools to end this epidemic. It’s just up to all of us to use them now.”

To learn more about the AMA’s advocacy, visit end-overdose-epidemic.org.

**CMS reduces regulatory burden and discontinues certain forms starting in 2023**

The AMA has longstanding concerns about the undue regulatory burdens facing medical practices and is pleased that the Centers for Medicare & Medicaid Services (CMS) is discontinuing the use of Certificates of Medical Necessity (CMN) and DME Information Forms (DME). Information from these forms is now available either on the claim or in the medical record. This change is effective Jan. 1, 2023, and applies to the following forms:

- CMS-484–Oxygen
- CMS-846–Pneumatic Compression Devices
- CMS-847–Osteogenesis Stimulators
- CMS-848–Transcutaneous Electrical Nerve Stimulators
- CMS-849–Seat Lift Mechanisms
- CMS-854–Section C Continuation Form
- CMS-10125–External Infusion Pumps
- CMS-10126–Enteral and Parenteral Nutrition

To help physician practices to prepare for this change, the AMA has created a new resource (PDF) that include five steps to take advantage of this administrative burden relief starting on Jan. 1.

**2021 MIPS feedback now available and targeted review period open**

CMS released Merit-based Incentive Payment System (MIPS) performance feedback and final scores for the 2021 performance year, which determine whether a physician will receive a positive, neutral or negative payment adjustment on Medicare services furnished in 2023. Physicians can view this information on the Quality Payment Program (QPP) website using their HCQIS Access Role and
Profile (HARP) credentials. For help registering for a HARP account, access the QPP Access User Guide (.ZIP). CMS has also released several resources for more information, including:

- 2021 MIPS Performance Feedback FAQs (PDF)–Highlights what performance feedback is, who receives the feedback, and how to access it on the QPP website.
- 2021 MIPS Performance Feedback Patient-Level Data Reports Supplement (PDF)–Reviews the data included and answers questions about the downloadable patient-level reports included in performance feedback.
- 2023 MIPS Payment Year Payment Adjustment User Guide (PDF)–Reviews information about the calculation and application of MIPS payment adjustments and answers frequently asked questions.

In response to AMA advocacy, CMS implemented several flexibilities to mitigate the impact of the COVID-19 pandemic in 2021, including applying the MIPS automatic extreme and uncontrollable circumstances policy to all MIPS-eligible clinicians and reweighting the cost performance category to 0% of the final score. The 2021 MIPS final scores reflect these COVID-19 flexibilities.

If a physician believes there was an error in the calculation of the MIPS final score, he or she should request a targeted review by Oct. 21, 2022. Examples of previous targeted review circumstances include the following:

- Data were submitted under the wrong Taxpayer Identification Number (TIN) or National Provider Identifier (NPI)
- Eligibility or special status issues (e.g., a physician has Qualifying APM Participant status and should not receive a payment adjustment)
- Performance categories were not automatically reweighted even though a physician qualifies for reweighting due to extreme and uncontrollable circumstances

CMS generally requires documentation to support a targeted review request, which varies by circumstance. A CMS representative will contact physicians and practices about providing any specific documentation required. If the targeted review request is approved and results in a scoring change, CMS will update the final score and associated payment adjustment (if applicable). Please note that targeted review decisions are final and not eligible for further review. For more information about how to request a targeted review, please refer to the 2021 Targeted Review User Guide (PDF).

Concerns about process for correcting errors in controlled substance prescriptions

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The AMA has heard concerns from physicians and state medical associations about guidance that the Drug Enforcement Administration (DEA) issued in June that led certain pharmacy chains to instruct pharmacists that they could no longer correct certain errors on prescriptions for controlled substances. For example, some pharmacists told patients they needed to obtain a new prescription from their physician if the patient's address on the prescription was incorrect. The DEA has now withdrawn that guidance and issued a new statement as follows:

"In the past few months, DEA has received an increasing number of questions concerning pharmacists’ ability to add or modify information—like a patient’s address—on paper prescriptions. To address these questions, DEA has been reviewing the relevant regulations and working to draft new regulations to address this issue. As an interim measure, pharmacists are permitted to adhere to state regulations or policy regarding those changes that a pharmacist may make to a schedule II prescription after oral consultation with the prescriber."

In response to questions about why this statement only references schedule II prescriptions, the National Association of Chain Drug Stores staff noted that, for schedule III-V prescriptions, a pharmacist may consult with a prescriber and, as part of that consultation, obtain an oral prescription. Questions remain about whether pharmacists are authorized to correct erroneous or missing information on their own for schedule III-V prescriptions without contacting the patient’s physician if authorized by state law. The AMA will provide more clarity as it becomes available.

**AMA urges CMS to require physician oversight of rural emergency hospitals**

On Aug. 29, the AMA submitted comments (PDF) in response to proposed Conditions of Participation for Rural Emergency Hospitals (REH), a new facility type under Medicare that was authorized with the passage of the Consolidated Appropriations Act of 2020. REHs will be granted more flexibility in establishing conditions of participation to improve access to care in rural communities that have been disproportionately impacted by hospital closures in recent years. The AMA supports the intent of the Proposed Rule but, as proposed, REHs could operate with minimal physician oversight or involvement in patient care.

In the submitted comments, the AMA strongly urged CMS to require REHs to comply with existing Medicare supervision requirements. Also, the AMA urged CMS to require that at least one physician should be physically present in an REH in case situations arise where patients need medical attention that is beyond the expertise of mid-level providers.

The AMA also urged Medicare to require a more robust discharge planning process and strongly opposed a proposal that would allow a governor, after consulting with the state board of medicine and
nursing, to exempt Certified Registered Nurse Anesthetists (CRNA) from physician supervision requirements.

**Important time-limited PSLF opportunity**

On Oct. 6, 2021, the U.S. Department of Education (ED) announced a change to the Public Service Loan forgiveness (PSLF) program rules for a limited time as a result of the COVID-19 emergency. For a limited time, borrowers may receive credit for past periods of repayment that would otherwise not qualify for PSLF. This current one-time waiver that the ED has offered will allow individuals to rectify their federally held student loans and qualify for PSLF if they are working for a qualifying employer and apply before Oct. 31, 2022.

This issue is particularly important considering the large number of students that take out student loans for medical school (an average of $200,000) and the multiple federal policy changes that are being made (or being considered) to the PSLF program. This issue is critically important for medical students, residents and young physicians, as well as underrepresented populations of physicians who tend to hold more student loans.

The White House and the ED have determined that Sept. 7, 2022, will be a "Day of Action for Healthcare Professionals & First Responders" to spread the word about this limited-time PSLF opportunity. The AMA and ED will be hosting a webinar to discuss the PSLF program and answer your questions. Save the date for Sept. 20, 2022, at 5:00 p.m. Central and stay tuned for more details.

**More articles in this issue**

- Sept. 2, 2022: Advocacy Update spotlight on final rules of NSA