Physicians urge Medicare to prevent pay cuts, preserve telehealth policies

In response to the 2023 Medicare Physician Payment Schedule proposed rule, the AMA submitted detailed comments and urged the Centers for Medicare & Medicaid Services (CMS) to work with Congress to avert budget-neutrality cuts and implement an inflationary update for doctors who face a 4.42% pay cut in January.

In addition, physicians urged CMS to work with Congress to extend the 5% incentive payment physicians can earn for participating in an Advanced Alternative Payment Model. Congress also needs to extend the $500 million in funding for the exceptional performance payments that physicians can earn under the Merit-based Incentive Payment System (MIPS). The lapse of these incentives, coupled with the 4.42% pay cut, threatens patient access to Medicare-participating doctors and undermines the sustainability of physician practices.

In addition, the AMA urged CMS to:

- Continue its current coverage and payment policies for telephone visits and audio-visual telehealth services until the joint Current Procedural Terminology-RVS Update Committee (RUC) Telemedicine Office Visits Workgroup determines accurate coding and valuation, as needed, for office visits performed via audiovisual and audio-only modalities.
- Pause consideration of other sources of cost data for use in the Medicare Economic Index until the AMA’s extensive effort to collect practice-cost data from physician practices is complete.
- Apply the office evaluation and management (E/M) visit increases to the office visits, hospital visits and discharge-day management visits included in surgical global payment, as it has done historically.
- Conduct a demonstration to determine the financial and operational efficiencies for Medicare patients with underlying medical conditions who require integral dental services as a condition of their covered, primary Medicare Part A service.
- Separate the funding source to cover dental services from—and have no impact on—the Medicare physician payment schedule.
- Annually update the payment amount for administration of Part B preventive vaccines to account for changes in the cost of administering those vaccines.
- Reduce the MIPS performance threshold to avert penalizing an estimated one-third of MIPS-eligible clinicians and to specifically help small practices in reporting MIPS data.

**New Medicare payment legislation would provide relief from scheduled cuts**

This week, U.S. Representatives Ami Bera, MD (D-CA) and Larry Bucshon, MD (R-IN), introduced H.R. 8800, the “Supporting Medicare Providers Act of 2022,” which would give critical support to physicians who, following release of the proposed rule for the 2023 Medicare Physician Fee Schedule, are again facing payment cuts. The bipartisan legislation (PDF) would provide relief from the scheduled 4.42% Medicare conversion factor payment cut and offer stability as the AMA works to improve the Medicare payment system.

The AMA strongly supports the bill and appreciates the leadership of Reps. Bera and Bucshon, who have been long standing champions and previously led successful efforts to mitigate proposed cuts to physician’s Medicare payments during the pandemic.

We encourage you to contact your U.S. Representative and encourage them to cosponsor H.R. 8800 by visiting PhysiciansGrassrootsNetwork.org.

**House passes major prior authorization legislation**

On Sept. 14, 2022, the U.S. House of Representatives unanimously passed H.R. 3173, the bipartisan Improving Seniors’ Timely Access to Care Act. The bill requires better transparency and more timely coverage decisions by Medicare Advantage plans, reducing unnecessary delays in care by streamlining and standardizing prior authorization.

The House passage is a major milestone in addressing the overused, costly and burdensome practice of prior authorization that leads to harmful impacts on patients as well as care delays. H.R. 3173 was introduced on May 13, 2021, by Representatives Suzan DelBene (D-WA), Mike Kelly (R-PA), Ami Bera (D-CA) and Larry Bucshon (R-IN) but comes after years of work to introduce, craft and fine tune the legislation between Congress, the AMA and other stakeholders.

Fixing prior authorization is a critical component of the AMA Recovery Plan for America’s Physicians. Find out how the AMA is tackling prior authorization with research, practice tools and reform.
The AMA strongly supports (PDF) fixing prior authorization and has worked diligently with members of the House and Senate to address this important issue. The AMA applauds the passage by the U.S. House of Representatives of this important legislation. H.R. 3173 now heads to the U.S. Senate for consideration, where there is already a Senate companion bill, S. 3018, with the same title.

## Telehealth is fundamental to care: The Senate must act like it

The AMA and more than 300 other physician, health care and patient organizations are calling on the U.S. Senate to follow the example set by a bipartisan 416–12 vote in the House of Representatives and continue regulatory and payment telehealth flexibilities for at least two years.

Access through telehealth “has been transformational—patients now expect and often prefer telehealth as a key component of our health care system,” says the letter (PDF), which notes that doctors and other health care organizations “have been able to reach many patients that previously had access barriers through virtual care.”

That was made possible by the flexibilities and the waivers under the current declaration of a public health emergency (PHE) but at the end of the COVID-19 PHE, “the clock begins to tick on the current 151-day statutory extension of telehealth waivers.”

That is why the Senate should act this fall to follow the House’s lead and pass the “Advancing Telehealth Beyond COVID-19 Act” and also seek a permanent extension that includes provisions to:

- Lift limitations on the locations of patients and physicians or other clinicians.
- Remove in-person requirements for telemental health.
- Ensure continued access to clinically appropriate controlled substances without in-person requirements.
- Increase access to telehealth services in the commercial market.

For more information, read the full story from Kevin B. O’Reilly, AMA news editor.

## AMA comments on nondiscrimination in education programs and activities

The AMA submitted comments (PDF) to the U.S. Department of Education Secretary, Miguel Cardona, in response to a proposed rule on “Nondiscrimination on the Basis of Sex in Education
Programs or Activities Receiving Federal Financial Assistance.” The AMA expressed its appreciation for the proposed changes to the Title IX rules, which would undo many of the controversial, harmful provisions put in place in 2020 that have failed to adequately protect individuals who are subject to incidents of sex-based harassment and other sex discrimination.

These proposed changes are consistent with Title IX’s broad mandate to prohibit sex discrimination in education and help to clarify the scope and application of Title IX and the obligation of all schools, including in undergraduate and graduate medical education, to provide an educational environment free from discrimination on the basis of sex, including through responding to incidents of sex discrimination.

The AMA expressed support for proposed changes that would:

- Require schools to respond to a much wider range of sexual harassment and other sex-based harassment incidents than under the 2020 rules
- Increase protections for LGBTQI+ students, including language that would explicitly state that “sex discrimination” includes discrimination based on sexual orientation, gender identity, and sex characteristics (e.g., intersex traits), status as transgender or nonbinary, or sex stereotypes
- Expand regulatory protections for pregnant and parenting students

The AMA House of Delegates adopted new policy in 2021 aimed at protecting medical students and residents from sexual harassment.

Register for next week’s webinar: A time-limited Public Service Loan Forgiveness Program waiver

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

The AMA and the ED are hosting an AMA Advocacy Insights webinar to discuss the PSLF Program and answer your questions about the limited-time waiver. In the webinar, which will take place on Sept. 20 at 5:00 p.m. Central, AMA President-elect Jesse M. Ehrenfeld, MD, MPH, will be joined by Ashley Harrington, JD, senior advisor to the chief operating officer at the Department of Education’s Office of Federal Student Aid. Registrants who are unable to attend the live session will receive a link to view the recording. Register now.
Submit your Provider Relief Fund Period 3 Report before Sept. 30, 2022

As a condition of accepting general and/or targeted Provider Relief Fund (PRF) payments exceeding $10,000, physicians must complete reporting to the Health Services and Resources Administration (HRSA). For physicians who received more than $10,000 in the aggregate from Jan. 1, 2021, to June 30, 2021, known as Reporting Period 3, the PRF Reporting Portal is now open and will close after Sept. 30, 2022, at 11:59 p.m. Eastern.

Physicians who have previously reported may log into the portal with their username, TIN and password. Additional information may be found on the HRSA PRF website, which can be accessed on the PRF Reporting Resources Page. For specific questions related to reporting, physician practice staff should contact the Provider Support Line at 866-569-3522; for TTY dial 711. Hours of operation are 8:00 a.m. to 10:00 p.m. Central, Monday through Friday.

AMA comments on Hospital Outpatient Prospective Payment System proposed rule

On Sept. 13, 2022, the AMA submitted comments (PDF) to CMS on the 2023 Medicare Payment Policies under the Hospital Outpatient Prospective Payment System (OPPS) proposed rule that supported CMS’ goal to reduce regulatory burden and increase flexibility for physicians and patients—especially during the COVID-19 PHE. In the comments, the AMA raised concerns that the impact of some proposals will continue to widen the gap for marginalized and minoritized communities.

The AMA recommended that CMS stop its practice of rescaling the Medicare ambulatory surgical center (ASC) relative weights to achieve a perceived budget neutrality objective. The AMA also strongly opposed removing the requirement that physicians supervise outpatient diagnostic services. The AMA also commended CMS for seeking to understand, through a request for information, the costs associated with innovative artificial intelligence (AI) technology, in addition to supporting CMS’ proposal to include as organ acquisition costs, the costs for donor management when death is imminent.

Additional points the AMA raised in the comments:

- The proposed rule did not attempt to quantify the physician and patient burden that will result from adding prior authorization to Hospital Outpatient Department (OPD) services on
Medicare beneficiaries, and therefore, the AMA did not support that proposal.

- The AMA does not think that Current Procedure Terminology (CPT®) codes 0649T, 0722T and 0724T should be considered “certain services” that are packaged under the regulation and recommended that CMS allow for separate payment of these important services without creating C-codes.
- The AMA commended CMS for seeking to understand the costs associated with innovative artificial intelligence (AI) technology, noting it is important that the direct practice expense included in the CPT code is not only considered for payment when a service is provided in physician offices under the Medicare Physician Fee Schedule (MPFS), but also as a resource cost when Ambulatory Payment Classification assignments are determined under the OPPS payment system.
- The AMA urged CMS to continue use of the hospital market basket as the annual update mechanism for ASC payments and was supportive of the proposed payment for Rural Emergency Hospitals.
- The U.S. Food and Drug Administration (FDA), not CMS, is best positioned to evaluate an AI product’s potential for introducing inappropriate bias into clinical decision making, especially bias which could influence outcomes for minoritized groups, and that such evaluation should be incorporated into the requirements to be met by AI developers seeking authorization to market.
- While the AMA generally supports the concept of allowing ASCs to tailor their quality measurement and improvement efforts to those procedures more frequently treated at the facility, the AMA urged CMS not to consider implementing or adapting the Merit-based Incentive Payment System (MIPS) Value Pathways (MVPs) for other quality programs since much work is still needed.

**Significant improvements needed in Medicare Advantage**

In response to a recent CMS Request for Information, the AMA is calling (PDF) for major improvements in federal policy governing Medicare Advantage (MA) plans. To advance health equity, the AMA recommends that insurers be encouraged to offer five-star plans in areas that currently do not have them, to help improve access to high-quality plans by people in racial and ethnic minority groups, and that MA plans pay for translation and other language services.

The accuracy of MA network directories also continues to be a serious problem, as is network adequacy. The AMA letter recommends requiring MA plans to submit accurate directories annually prior to open enrollment, that plans boost their coverage and access to behavioral health services, and that CMS oversee and enforce mental health and substance use parity requirements.
The letter provides detailed information from AMA surveys and an April 2022 report from the HHS Office of Inspector General that show changes are needed to prevent negative clinical outcomes in vulnerable patient populations. The AMA letter urges CMS to require MA plans to offer programs that exempt physicians with high rates of PA approvals and/or a history of adherence to evidence-based clinical guidelines from PA requirements, as well as to eliminate low-value and/or potentially harmful requirements. CMS is also urged to increase transparency of MA PA requirements.

The MA letter also addresses telehealth policy, MA star ratings, health information exchange opportunities and considerations, and competition. Read the full letter (PDF) for more information.

The need for IMGs in addressing the U.S. physician shortage

This week, the AMA submitted a Statement for the Record (PDF) to the U.S. Senate Subcommittee on Immigration, Citizenship, and Border Safety as part of the hearing entitled, “Flatlining Care: Why Immigrants Are Crucial to Bolstering Our Health Care Workforce.” The AMA commended the Subcommittee for focusing on the critically important issue of physician immigration and workforce shortages and emphasized the importance of international medical graduates (IMGs) in addressing this shortage.

IMGs often serve in rural and medically underserved communities, providing care to many of our country’s most at-risk citizens. The AMA is committed to ensuring that there is proper access to physicians for all patients and that physicians are well supported in their role as leader of the health care team. If immigration barriers for physicians are reduced, it will help to increase the number of physicians in the U.S. which will lead to healthier communities and ultimately a healthier country as access to much-needed medical care increases.

The AMA supports several pieces of legislation that would help to alleviate the current and impending physician shortage:

- The Conrad 30 program allows resident physicians working in the U.S. on J-1 visas to remain in the U.S. without having to return to their home country if they agree to practice in an underserved area for three years. The AMA supports the “Conrad State 30 and Physician Access Reauthorization Act,” (H.R. 3541/S. 1810) which would reauthorize the Conrad 30 waiver policy for an additional three years.
- The “Healthcare Workforce Resilience Act” (H.R. 2255/S. 1024) would recapture 15,000 unused employment-based physician immigrant visas and 25,000 unused employment-based professional nurse immigrant visas from prior fiscal years as a way to bolster the U.S. physician workforce and ensure U.S. patients retain access to the care they deserve during this unprecedented public health crisis.
- The “Resident Physician Shortage Reduction Act” would gradually raise the number of Medicare-supported GME positions by 2,000 per year for seven years, for a total of 14,000 new slots. A share of these positions would be given to hospitals with diverse needs including hospitals in rural areas, hospitals serving patients from health professional shortage areas, hospitals in states with new medical schools or branch campuses, and hospitals already training over their caps.
- The “Physician Shortage GME Cap Flex Act” is bipartisan legislation that helps address the national physician workforce shortage by providing teaching hospitals with an additional five years to set their Medicare GME cap if they establish residency training programs in primary care or specialties that are facing shortages.

The AMA continues to seek bipartisan policy solutions that will ensure that patients are provided the best care and that immigration barriers are addressed to resolve the physician workforce shortage and preserve patient access to care.

Webinar recording available: What physicians need to know about TPOXX for treatment of monkeypox

View the recording of a recent AMA webinar, in which experts from the AMA, FDA and CDC discussed tecovirimat, or TPOXX, for the treatment of monkeypox in infected individuals. Hosted by AMA Chair Sandra Fryhofer, MD, the discussion included speakers Adam Sherwat, MD, deputy director, Office of Infectious Disease at FDA’s Center for Drug Evaluation and Research; Brett W. Petersen, MD, MPH, deputy chief, Poxvirus and Rabies Branch, CDC’s Division of High Consequence Pathogens and Pathology; and Timothy Wilkin, MD, MPH, professor of medicine and assistant dean for Clinical Research Compliance for Human Research Protections at Weill Cornell Medicine and TPOXX clinical trial lead.

The discussion provided background on tecovirimat, including its current status, availability and access while the drug is under an investigational new drug application. An overview of the recently announced National Institute of Allergy and Infectious Diseases sponsored Phase 3 clinical trial evaluating TPOXX was also provided.

More articles in this issue

- Sept. 16, 2022: Advocacy Update spotlight on 2022 Overdose report
- Sept. 16, 2022: State Advocacy Update