

restore payment for ECG interpretation and rescind payment reductions for “new” physicians. To ensure that these provisions were implemented in a budget-neutral manner, as required by OBRA 89, CMS reduced all RVUs in the 1994 payment schedule by 1.2%.

The Balanced Budget Act of 1997 gave physicians the right to contract privately with their Medicare patients for health care services, beginning in 1998. This new ability came with a heavy price, however. Physicians who contract with one or more of their Medicare patients for Medicare covered services may not bill the program for any Medicare services for two years. To correct this flaw, the AMA vigorously supported legislative proposals that would permit Medicare beneficiaries to pursue private contracts with their physicians, without isolating physicians from the Medicare program for two years.

Legislative Actions Impacting the Conversion Factor (CF)

The Consolidated Appropriations Resolution of 2003 (Pub. L. 108-7), signed into law on February 20, 2003, included language to allow CMS to correct mistakes in 1998 and 1999 SGR. This legislation resulted in a positive update in the 2003 CF of 1.6%, rather than the projected cut of 4.4%.

The MMA was signed by President George W. Bush on December 8, 2003. This legislation expanded Medicare to include prescription drug coverage. The law also included provisions related to the MFS. Most importantly, Congress halted another 4.5% cut to the 2004 CF, replacing it with 1.5% increases in both 2004 and 2005.

After a two-year respite following the MMA, the AMA faced a prospective cut to the CF in 2006 of 4.5%. The AMA’s aggressive lobbying efforts, including an extensive grassroots network and broad media campaign, paid off in early 2006 as Congress passed the 2005 Deficit Reduction Act, which included a one-year freeze to the CF.

The AMA increased its lobbying efforts in 2006, knowing that January 1, 2007, would bring cuts to the CF of roughly 5% yet again. In addition to grassroots efforts and a media blitz, the AMA organized numerous physician fly-ins to Washington, DC. In deference to the collective voice of physicians, Congress passed the Tax Relief and Health Care Act of 2006. Not only did the new law contain a freeze to the CF for 2007, but it allowed a 1.5% increase for physicians who participated in a new quality reporting program.

On January 1, 2008, physicians faced a 10.1% reduction to the CF. Fortunately, the AMA succeeded in postponing this cut until July 1, 2008; Congress instead implemented a 0.5% increase to the Medicare CF from January 1 through June 30, 2008. By providing a temporary six-month reprieve from the 10% pay cut, the legislation passed by Congress left the outlook for the remainder of 2008 highly uncertain. The AMA mounted an aggressive effort in the beginning of 2008 to secure a longer-term solution to this continuing Medicare crisis. This hard work was rewarded through the passage of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). MIPPA mandated an 18-month Medicare physician payment fix, stopping the 10.6% Medicare physician cut on July 1, 2008, and the 5.4% cut on January 1, 2009, continuing the June 2008 rates through December 31, 2008, and providing an additional 1.1% update for 2009. This triumph would not have been possible without the support of the AMA members.

The following legislative acts from 2009 through 2015, directly impacted the CFs and culminated with the repeal of the flawed Medicare sustainable growth rate (SGR) formula:

- **The Department of Defense Appropriation Act of 2010**—Signed into law on December 19, 2009; this Act applied a zero percent update to the 2010 CF from January 1, 2010, through February 28, 2010.
- **The Temporary Extension Act of 2010**—Signed into law on March 2, 2010; this Act further delayed the scheduled 21% Medicare payment reduction for physician services by applying a zero percent update to the 2010 CF from March 1-31, 2010.
- **The Continuing Extension Act of 2010**—Signed into law on April 15, 2010; this Act was the third time in 2010 that the 21% reduction to the CF was postponed. This Act extended the postponement of the reduction by again applying a zero percent update to the 2010 CF from April 1, 2010, through May 31, 2010.
- **The Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010**—Signed into law by President Barack Obama on June 25, 2010; this Act replaces the 21% Medicare physician payment cut to the 2010 CF that took effect June 1, 2010, with a retroactive 2.2% payment update to the 2010 CF from June 1, 2010, through November 30, 2010.

- **The Physician Payment and Therapy Relief Act of 2010**—Signed into law on November 30, 2010; this Act maintained the 2010 CF established by the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act from December 1-31, 2010. The cost (\$1 billion over 10 years) of this one-month postponement will be paid for by changes in Medicare payment for outpatient therapy services.
- **The Medicare and Medicaid Extenders Act of 2010**—Signed into law December 15, 2010; this Act provides a one-year freeze on the Medicare CF for 2011 established by the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act and avoided a 25% reduction to the CF that was set to take effect on January 1, 2011. Further provisions of this Act include: (1) extending the Work Geographic Practice Cost Indices (GPCI) floor of 1.00, created in the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) through December 31, 2011; (2) extending the exceptions process for Medicare therapy caps through December 31, 2011; (3) extending the payment for the technical component of certain physician pathology services; and (4) extending the mental health add-on payment of 5% for certain mental health services through December 31, 2011.
- **The Temporary Payroll Tax Continuation Act of 2011**—Signed into law December 23, 2011; this Act delayed the 27.4% reduction to the CF that was to be implemented on January 1, 2012. Instead, a zero percent update to the CF and the other provisions listed above in the Medicare and Medicaid Extenders Act of 2010 were continued through February 29, 2012.
- **The Middle Class Tax Relief and Job Creation Act of 2012**—Signed into law on February 22, 2012; this Act further delayed the 27.4% reduction to the conversion factor and continued the zero percent update through -December 31, 2012.
- **American Taxpayer Relief Act of 2012**—Signed into law on January 2, 2013; this Act prevented a scheduled payment cut of 25.5% from taking effect on January 1, 2013. This new law provides a zero percent update through December 31, 2013.
- **Pathway for SGR Reform**—Signed into law on -December 26, 2013; this Act further delayed a scheduled payment cut of 24% and replaced it with a 0.5% increase until April 1, 2014.
- **Protecting Access to Medicare Act of 2014 (PAMA)**—On March 31, 2014, the Senate passed H.R. 4302, which postponed the imminent 24% Medicare physician payment cut for 12 months, until April 1, 2015. Section 220 of the Act established an annual target for reductions in the payment schedule expenditures that result from adjustments to relative values of mis-valued codes. If the net reduction in expenditures for the year is equal to or greater than the target for the year, reduced expenditures attributable to such adjustments shall be redistributed in a budget-neutral manner within the payment schedule.
- **Achieving a Better Life Experience Act of 2014 (ABLE)**—Signed into law on December 19, 2014; this Act subsequently established the percent target recapture amount for the above provision in PAMA, setting a 1% target for reduced expenditures for CY 2016 and a 0.5% target for CYs 2017 and 2018. Physician payments must be reduced by the difference between the target for the year and the estimated net reduction in expenditures. For 2016 the target recapture amount produced a reduction to the CF of 0.77%. For 2017 the target recapture amount produced a reduction to the CF of 0.18%. For 2018 the target recapture amount produced a reduction to the CF of 0.09%.
- **Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)**—Signed into law on April 16, 2015; this Act permanently repealed the flawed Medicare sustainable growth rate (SGR) formula, to provide positive annual payment updates of 0.5%, starting July 1, 2015, and lasting through 2019.

Following years of extensive advocacy by the AMA, Congress permanently repealed the SGR formula with MACRA. Passage of this historic legislation finally brought an end to an era of uncertainty for Medicare beneficiaries and their physicians.

The AMA believed that the previous short-term fixes to the annual CF exacerbated the problem. In 2005, the Congressional Budget Office (CBO) said that freezing physician payments would cost \$48.6 billion over the next 10 years, and in 2011, the CBO estimated the cost at \$245 billion. In March 2015, the CBO estimated the permanent repeal of the SGR to cost \$141 billion.

Prior to the full repeal of the SGR, the AMA was also successful in advocating and achieving certain corrections within the SGR formula. These lobbying efforts resulted in CMS' determination to retroactively remove physician administered drugs from the SGR beginning January 1, 2010. In addition to the payments physicians receive for administering drugs, the cost of the

drug itself had been included in the spending that is used to calculate the SGR. While the drug administration is a true physician service and should be included, the drug product is not a physician service and should not be included. As a result of CMS' agreement with the AMA's lobbying efforts to remove physician administered drugs from the SGR, the cost of eliminating the debt burden and freezing current payment rates fell by \$50 billion over 10 years.

Reference

1. Todd JS. At last, a rational way to pay for physicians' services? *JAMA*. 1988;260:2439–2440.