

## **CMS' PLANNED CHANGES IN PAYMENT POLICIES WILL LEAD TO DRASTIC CUTS FOR SURGEONS**

As physicians continue to care for patients on the frontlines of the COVID-19 pandemic, cuts to physician payment for surgical services are looming. The Centers for Medicare & Medicaid Services (CMS) issued the Calendar Year (CY) 2021 Medicare Physician Fee Schedule (PFS) proposed rule — doubling down on a policy that will have drastic consequences for Medicare patients seeking surgical services at a time when physician practices are struggling to stay afloat. These policies also conflict with current law. Without congressional intervention, these policies will result in significant cuts to physician payment for most surgical services delivered to Medicare patients, destabilize health system financing, and drastically diminish the opportunity for hospital and physician offices to recover financially from COVID-19.

### ***Congressional Ask***

The American College of Surgeons (ACS) is urging Congress to take immediate action to prevent the cuts generated by the finalized evaluation and management (E/M) code policies, which go into effect on January 1, 2021. Members of Congress should cosponsor the *Holding Providers Harmless from Medicare Cuts During COVID-19 Act of 2020*, H.R. 8702. In addition to passing this legislation, Congress should also require CMS to apply the increased E/M adjustment to 10- and 90-day and maternity global code values.

### ***E/M Global Code Policy Changes***

In the CY 2020 Medicare PFS final rule published in November 2019, CMS increased the payment levels for stand-alone office and outpatient E/M codes. However, CMS did not apply the payment adjustment to the corresponding E/M portion of the global codes. In the CY 2021 PFS, CMS continues to refuse to adjust the global surgery code values. Arbitrarily adjusting some E/M codes but not others conflicts with the Omnibus Budget Reconciliation Act (OBRA) of 1989 (P.L. 101-239), which prohibits Medicare from paying physicians differently for the same work. Failing to adjust the E/M portion of the global codes is tantamount to paying surgeons less than physicians in other specialties, in contravention of the law.

### ***Add-on Code Policy Changes***

In 2018, CMS proposed to restructure the coding system for office and outpatient E/M visits to reduce documentation burden. Because certain specialties would experience payment cuts due to the proposed collapse of the payment levels, 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. However, CMS did not move forward with the single payment proposal and will instead retain the multiple levels of E/M codes that recognizes higher complexity visits. Nevertheless, CMS is still planning to adopt a new add-on code (GPC1X), even though the agency's justification for including an add-on code in the new E/M approach no longer exists. Now, instead of correcting a system that would have resulted in unfair payment reductions, the agency is creating a new coding scheme that inappropriately discriminates among physician specialties.

### ***Legislative Solution to Prevent the Cuts***

U.S. Representatives Ami Bera, MD (D-CA), Larry Bucshon, MD (R-IN), Brendan Boyle (D-PA), George Holding (R-NC), Raul Ruiz, MD (D-CA), Phil Roe, MD (R-TN), Abby Finkenauer (D-IA), and Roger Marshall, MD (R-KS) introduced the *Holding Providers Harmless from Medicare Cuts During COVID-19 Act of 2020*, H.R. 8702, which would provide a critical lifeline for two years to specialties facing drastic Medicare payment cuts on January 1, 2021. This bipartisan legislation would provide a payment adjustment to physicians and other health care professionals, ensuring they will not see payment cuts next year.

### ***Compounding Effect of E/M Global Code Policy and Add-on Code***

The combined policies proposed by CMS to not apply a proportionate increase to the E/M component of global codes and moving forward with the unjustified add-on code will have a devastating effect on a significant portion of specialty care due to the statutory requirements for budget neutrality under the Medicare PFS. All of these changes will be occurring at a time when many physicians are struggling to keep their employees on payroll and their practices viable due to the pandemic. Physicians and patients across the country have canceled or postponed all elective procedures, and case volumes and revenues have plummeted as a result. Like many other small businesses, physician practices will have to pay back much of the financial relief they received and will need to make additional challenging decisions to preserve their long-term financial health and continue caring for patients.

### ***Impact Chart***

<b>Specialty</b>	<b>Projected 2021 Medicare Payment</b>
Cardiac Surgery	-9%
Thoracic Surgery	-8%
Ophthalmology	-6%
Vascular Surgery	-7%
Neurosurgery	-7%
Plastic and Reconstructive Surgery	-7%
General Surgery	-7%
Colon Rectal Surgery	-5%
Maxillofacial Surgery	-5%
Orthopaedic Surgery	-5%
Hand Surgery	-3%
Anesthesiology	-8%