

## Stop Cuts to Medicare Physician Payment

**Congress must act before the end of the year or physicians will face significant cuts to Medicare payment stemming from both sequestration and budget neutrality requirements in the Physician Fee Schedule.**

### MEDICARE PHYSICIAN PAYMENT

For more than 20 years, Medicare payments have been under pressure from Centers for Medicare & Medicaid Services (CMS) anti-inflationary payment policies. While physician services represent a very modest portion of the overall growth in healthcare costs, they are perennial targets for cuts when policymakers seek to tackle spending. Although surgeons and physicians in general were largely successful in avoiding direct cuts to reimbursements caused by the Sustainable Growth Rate factor, which was enacted in 1997 and repealed in 2015, Medicare physician payments have remained constrained by a budget-neutral financing system. Updates to the Conversion Factor (CF) have failed to keep up with inflation and the result is that the CF today is only about 50% of what it would have been if it had simply been indexed to general inflation starting in 1998.

### EXPIRING RELIEF FROM PAYMENT CUTS

The Calendar Year (CY) 2021 Physician Fee Schedule (PFS) rule finalized by CMS included increases to reimbursement for evaluation and management services, which in turn required decreases to the CF used in the PFS due to the statutory "budget neutrality" requirement. The Consolidated Appropriations Act of 2021 (Public Law No: 116-260) mitigated the impact of the cuts to most surgical specialties by providing a 3.75% payment adjustment to all PFS services in 2021. Unfortunately, the CY 2022 PFS Proposed Rule, which is expected to be finalized later this year, does not maintain the 3.75% payment adjustment. Because of this, similar relief will need to be provided for 2022 and beyond.

### SEQUESTRATION

In order to reduce the deficit, the Budget Control Act (BCA) of 2011 mandated federal budget cuts totaling more than \$1 trillion over nine years, including the 2% annual cuts to Medicare payments. Congress delayed those cuts through March 31, 2021, with a provision in last year's Coronavirus Aid, Relief, and Economic Security Act. In April, Congress and the President again extended the moratorium on the 2% cuts until December 31, 2021 (Public Law No: 117-7).

In addition to the BCA, the Statutory Pay-As-You-Go (PAYGO) Act of 2010 requires that mandatory spending and revenue legislation not increase the federal budget deficit over a 5- or 10-year period or such spending will trigger sequestration. Earlier this year, Congress passed the American Rescue Plan (Public Law No: 117-2) triggering PAYGO and requiring additional cuts to Medicare payment capped at 4%.

Taken together, the expiration of the CF adjustment, BCA sequestration, and the sequestration as triggered by PAYGO amount to a nearly 9% cut to Medicare physician payment beginning January 1, 2022.

### CONGRESSIONAL ASK

**Congress must address the expiring CF adjustment, the BCA sequester, and PAYGO before the end of the year or physicians will face significant cuts to Medicare payment.**

## Ease the Burden of Prior Authorization

Co-sponsor the *Improving Seniors' Timely Access to Care Act*.

Surgical patients are encountering barriers to timely access to care due to onerous and unnecessary prior authorization (PA) requests from Medicare Advantage (MA) plans. Utilization review tools such as PA can sometimes play a role in ensuring patients receive clinically appropriate treatment while controlling costs. However, the American College of Surgeons (ACS) is concerned about the growing administrative burdens and the delays in medically necessary care associated with excessive PA requirements.

### LEGISLATIVE EFFORTS

In order to improve transparency and efficiency of the PA process in the MA program, Representatives Suzan DelBene (D-WA), Mike Kelly (R-PA), Ami Bera, MD (D-CA), and Larry Bucshon, MD (R-IN) introduced the *Improving Seniors' Timely Access to Care Act (H.R. 3173)*. The bill has broad bipartisan support with 168 co-sponsors as of 7/27/2021. Senate introduction is forthcoming.

The legislation is based on a consensus statement on PA reform adopted by leading national organizations representing physicians, medical groups, hospitals, pharmacists, and health plans. It would facilitate electronic prior authorization, improve transparency, and increase Centers for Medicare & Medicaid Services oversight on how MA plans apply PA requirements. Specifically, the bill would:

- Establish an electronic prior authorization (ePA) process and require MA plans to adopt ePA capabilities;
- Require the Secretary of Health and Human Services to establish a list of items and services eligible for real-time decisions under a MA ePA program;
- Standardize and streamline the PA process for routinely approved items and services;
- Ensure PA requests are reviewed by qualified medical personnel;
- Increase transparency around MA PA requirements and their use; and
- Protect beneficiaries from disruptions in care due to PA requirements as they transition between MA plans.

### CONGRESSIONAL ASK

**House:** Co-sponsor the bipartisan *Improving Seniors' Timely Access to Care Act (H.R. 3173)* to increase transparency of PA requirements in the MA program.

**Senate:** Support the *Improving Seniors' Timely Access to Care Act* upon re-introduction.

## Maintain a Strong Surgical Workforce

Co-sponsor the *Ensuring Access to General Surgery Act*.

General surgery is an essential element of a community-based health system. A shortage of general surgeons is a critical component of the crisis in health care workforce because only surgeons are uniquely trained and qualified to provide certain necessary, lifesaving procedures. In areas without general surgeons or with an insufficient surgical workforce, patients in need of care must travel to a place with surgical capabilities, leading to delays in care and potentially suboptimal outcomes. The availability of general surgical care to a rural health system facilitates an expanded spectrum of services for a local population's health care needs. This obviates the need for transfer, time away from employment, travel, and associated costs.

Unlike other key providers of the community-based health care system, general surgeons do not currently have a formal workforce shortage area designation. A congressionally mandated 2020 report, conducted by the Health Resources and Services Administration (HRSA), examined surgical shortage areas and showed a maldistribution of the surgical workforce, with widespread and critical shortages of general surgeons particularly in rural areas. Additionally, data from the Association of American Medical Colleges (AAMC) continues to project shortages of surgical specialties over the next 15 years.

The American College of Surgeons (ACS) believes that current data highlight the urgent need to establish a surgical shortage designation.

### LEGISLATIVE EFFORTS

As part of a multi-pronged legislative approach, ACS was successful in securing language in the FY19 Senate Labor-HHS appropriations report that required HRSA to study access to general surgeons by underserved populations (referenced above). Additionally, during the last session of Congress, ACS was supportive of the *Ensuring Access to General Surgery Act*.

*The Ensuring Access to General Surgery Act of 2021* (S. 1593), introduced on May 12 by Senators Brian Schatz (D-HI) and John Barrasso, MD (R-WY), would direct the Secretary of the Department of Health and Human Services (HHS), through the HRSA, to study and define a general surgery workforce shortage area and collect data on the adequacy of access to surgical services. Additionally, the legislation would grant the Secretary of HHS with the authority to designate general surgery shortage areas. A House version of the bill is to be reintroduced soon by Representatives Ami Bera, MD (D-CA) and Larry Bucshon, MD (R-IN).

### CONGRESSIONAL ASK

Determining where patients lack access to surgical services and designating a formal surgical shortage area will provide HHS with a valuable new tool for increasing access to the full spectrum of high-quality health care services. **Co-sponsor and support the *Ensuring Access to General Services Act* (S. 1593) in the U.S. Senate and co-sponsor the House version once reintroduced.**