



AMERICAN COLLEGE OF SURGEONS

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February 6, 2018

The Honorable Paul Ryan
Speaker of the House
U.S. House of Representatives
1233 Longworth House Office Building
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
235 Cannon Office Building
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi:

On behalf of the more than 80,000 members of the American College of Surgeons (ACS), we are writing to express both our sincere thanks and our opposition to provisions found in the Text to the House Amendment to the Senate Amendment to H.R. 1892, Division B – *Further Extension of the Continuing Appropriations Act, 2018*.

We sincerely appreciate the provisions that provide technical corrections to the Merit-Based Incentive Payment Systems (MIPS), which we believe will prevent some hardship for physicians transitioning to that program. Specifically, we are grateful for the decision to provide for extensions for the period of establishing flexibility for the Cost component of MIPS as found in Sec. 2205. As the Centers for Medicare and Medicaid Services (CMS) itself has admitted, significant problems exist with both the data used to make this computation and the methodology used in its application. Providing for the next three years that not less than 10 percent, but not more than 30 percent, of an individual provider's performance score be attributed to the Cost component will provide much needed time for CMS to refine both its sources of data collected and the methodology applied to make this computation. We sincerely hope Congress will aggressively employ its oversight authority to ensure the time provided by this flexibility will be utilized effectively.

Similarly, we want to express our gratitude for the extension for the period of establishing flexibility in setting the Performance Threshold for MIPS (Sec. 2205). We believe that a more gradual and incremental transition is more equitable and provides more time for surgeons to become familiar with the program and adapt their practice, performance and reporting habits accordingly.

The ACS is also appreciative for the timely inclusion of H.R. 3120, which eases meaningful use (MU) requirements. Increasingly stringent MU requirements that do not lead to improvements in patient care are unnecessary and unfair to both patients and providers. This provision will also decrease the burden on HHS of processing an amplified number of hardship requests.

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However, and in contrast, the ACS is opposed to the Medicare cuts provided by the extension of misvalued code adjustments beyond 2018. The continued use of this misguided policy has already eliminated much of the minimal statutory updates Congress enacted as part of the *Medicare Access and CHIP Reauthorization Act* (MACRA) in 2015. As per our previous communications to you, further application of these policies will result in Medicare physician payment rates at or below pre-MACRA levels. The current legislation under consideration extends this policy for an additional year.

When Congress enacted MACRA, updates of 0.5 percent were adopted for each year through 2019 followed by five years of zero (0) percent updates. To date, the application of the misvalued code policy has resulted in a total payment increase of 0.7 percent from 2015-2018, less than half of what was called for under MACRA. Because the work to revalue codes has been going on for over a decade, there are simply not enough services with sufficient volume left to review and revalue to meet these targets. In fact, due to the regulatory timeline the work to revalue codes for the 2019 fee schedule is already completed, guaranteeing that extension of this policy would virtually wipe out the entire 2019 update. An extension of this policy will generate additional cuts, meaning actual payment rates for all physicians will go down for the second time since MACRA was adopted.

Again, we are grateful for the provision of additional flexibility in establishing both the percentage attributable to the Cost component and the Performance Threshold in MIPS as well as H.R. 3120. However, we strongly urge you to not destabilize the Medicare program and ongoing efforts to transform it by extending the flawed policy relative to misvalued codes.

Sincerely,

David B. Hoyt, MD, FACS
Executive Director, ACS

cc: All Members of the U.S. House of Representatives

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