

July 22, 2021

Chiquita Brooks-LaSure, MPP
Administrator
Centers for Medicare & Medicaid Services
Attention: CMS-1751-P
P.O. Box 8011
Baltimore, MD 21244-1850

Re: Global Codes Policies in the CY 2022 Medicare Physician Fee Schedule Proposed Rule

Dear Administrator Brooks-LaSure:

On behalf of the undersigned 24 organizations, we write to voice our disappointment that the Centers for Medicare & Medicaid Services (CMS) has failed to incorporate the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC)-recommended work and time incremental increases for the revised office/outpatient visit E/M codes into the global codes. CMS has failed to address this issue in both the calendar year (CY) 2021 and CY 2022 Medicare physician fee schedule (PFS) rules. While CMS did finalize adjustments for other bundled services, such as maternity codes, in the CY 2021 Medicare PFS rule, organized medicine has been united in its recommendations that CMS incorporate the incremental revised office/outpatient E/M values into all of the 10- and 90-day global surgical package codes, as evidenced by the many comment letters and meetings over the past several years. **We request a meeting with CMS to discuss this issue in more detail.**

The CY 2022 3.75 percent reduction of the conversion factor will further add to cuts that many physician specialties have been experiencing for years. **We reiterate that it is inappropriate for CMS not to apply the RUC-recommended changes to global codes.** To do otherwise will continue to:

- ***Disrupt the relativity in the fee schedule:*** Applying the RUC-recommended E/M value increases to stand-alone E/Ms, select global codes (e.g., monthly end-stage renal disease and bundled maternity care), and select bundled services (e.g., monthly psychiatric management), but not to the E/Ms that are included in the global surgical package will result in disrupting the relativity between codes across the Medicare PFS, which was mandated by Congress, established in 1992, and refined over the past 27 years.
- ***Create specialty differentials:*** Per the Medicare statute, CMS is prohibited from paying physicians differently for the same work, and the “Secretary may not vary the . . . number of relative value units for a physician’s service based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician.”¹ Failing to adjust the global codes is tantamount to paying some doctors less for providing the same E/M services, in violation of the law. In the CY 2021 PFS proposed rule, CMS points to

¹ 42 U.S. Code §1395w-4(c)(6).

the method of valuation (i.e. building block vs. magnitude estimation) for a rationale as to why some bundled services should be increased in value to reflect the revised office/outpatient E/M values, while global codes should not. However, this statutory prohibition on paying physicians differently for the same work applies regardless of code valuation method and the incremental increases should apply to all physicians.

- ***Ignore recommendations endorsed by nearly all medical specialties:*** The RUC, which represents the entire medical profession, voted overwhelmingly (27-1) in 2019 to recommend that the full incremental increase of work and physician time for office visits be incorporated into the global periods for each CPT code with a global period of 10-day, 90-day, and MMM (maternity). The RUC also recommended that the practice expense inputs should be modified for the office visits within the global periods. In the CY 2021 PFS rule, CMS used the RUC recommendation as part of the rationale for proposing to increase the values of the maternity services codes and select other bundled services, but not the global bundled codes.

Again, we strongly urge CMS to apply the RUC-recommended changes to the E/M component of the global codes to maintain the relativity of the fee schedule congruent with the revaluation of the office and outpatient E/Ms. While we believe the Agency should have made the adjustments to the globals in CY 2021 rulemaking rather than in CY 2022, we would highlight that it would not be without precedent to address the valuation of the global codes in the subsequent year. After changes were made as part of the 1st Five Year Review of the PFS, CMS (then-Health Care Financing Administration (HCFA) initially declined to apply the E/M increases to the globals. However, the following year, in the CY 1998 PFS final rule, the Agency directly stated, “Upon further examination of this issue, we are increasing the work RVUs for global surgical services to be consistent with the 1997 increases in the work RVUs for evaluation and management services.”²

As we have consistently held, it has been the Agency’s policy to make these changes to the globals, and it would not be without precedent to make them in the year subsequent to the revaluation of the E/Ms. We implore the Agency to follow its own precedent and make this issue right.

Again, **we request a meeting to discuss this issue in more detail.** Thank you for your consideration of these comments, and we welcome continued dialogue with CMS on this and other critical issues.

Sincerely,

² Medicare: Physician Fee Schedule for Calendar Year 1998; Payment Policies and Relative Value Unit Adjustments and Clinical Psychologist Fee Schedule, 42 C.F.R. § 400 (1998).

American College of Surgeons
American Academy of Facial Plastic and Reconstructive Surgery
American Academy of Ophthalmology
American Academy of Otolaryngology – Head & Neck Surgery
American Association of Neurological Surgeons
American Association of Orthopedic Surgeons
American College of Obstetricians and Gynecologists
American College of Osteopathic Surgeons
American Orthopaedic Foot & Ankle Society
American Society of Breast Surgeons
American Society of Cataract and Refractive Surgery
American Society of Colon & Rectal Surgeons
American Society of General Surgeons
American Society for Metabolic and Bariatric Surgery
American Society of Plastic Surgeons
American Society of Retina Specialists
American Society for Surgery of the Hand
American Urogynecologic Society
American Urological Association
Congress of Neurological Surgeons
Society of American Gastrointestinal and Endoscopic Surgeons
Society of Gynecologic Oncology
The Society of Thoracic Surgeons
Society for Vascular Surgery