



September 8, 2015

Andrew Slavitt  
Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Room 445-G  
Hubert H. Humphrey Building  
200 Independence, Ave., S.W.  
Washington, D.C. 20201

**Re: *CMS-1631-P: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule (PFS) and Other Revisions to Part B for CY 2016***

Dear Acting Administrator Slavitt:

The American Chiropractic Association (ACA) is the largest professional association in the United States representing over 130,000 doctors of chiropractic (DCs), chiropractic assistants (CAs) and chiropractic students. ACA promotes the highest standards of ethics and patient care, contributing to the health and well-being of over an estimated 27 million individuals across the United States. The ACA appreciates the opportunity to provide comments on the Revisions to Payment Policies Under the Physician Fee Schedule (PFS) and Other Revisions to Part B for CY 2016 that was published in the Federal Register on July 15, 2015. We offer comments and recommendations on the following topics addressed in this proposed rule:

- Physician Compare
- Physician Quality Reporting System (PQRS)
- The Merit-Based Incentive Payment System (MIPS)

### ***Physician Compare***

The primary goal of Physician Compare is to help consumers make informed health care decisions and we support CMS' goal to continue expanding publically reportable data in 2015. As the agency continues to make an even broader set of quality measures and information available on the website in 2016 and beyond, it is important to ensure that smaller provider groups, such as doctors of chiropractic, are appropriately and meaningfully represented through Physician Compare. Therefore, the ACA would like to offer it's assistance in areas where stakeholder input would be useful. Additionally, ACA would like to commend CMS for their decision to begin reporting patient experience data, understanding the value of this information to consumers in making informed decisions about their health care. Chiropractic care has also continually had very high levels of patient satisfaction. The Brandeis Report to Congress on the Demonstration of Expanded Coverage of Chiropractic Services under Medicare noted that 60% of chiropractic patients reported "complete" or "a lot" of relief from

symptoms and 87% reported high satisfaction with care (8 or higher on a 10-point scale), with 56% indicating a perfect 10. Similarly high proportions reported that DCs listened carefully to, and spent sufficient time with, these Medicare beneficiaries.<sup>1</sup> Making this information readily available to the public is vital to the chiropractic industry and engaging patients about their experiences is an integral step to enhancing quality of care.

### ***Physician Quality Reporting System (PQRS)***

ACA, through our Committee on Quality Assurance and Accountability, has been very proactive in developing clinically useful performance measures and in educating doctors of chiropractic in the appropriate use of reportable measures. We continue to actively collaborate with various organizations that are responsible for developing and evaluating performance measures, including: AQA Alliance, National Quality Forum (NQF), National Committee on Quality Assurance (NCQA), and the AMA's Physician Consortium on Performance Improvement (PCPI). Unfortunately, doctors of chiropractic have been precluded from a number of reportable measures, under the Physician Quality Reporting System (PQRS) due to their limited coverage under Medicare. Currently, doctors of chiropractic may report on two (2) PQRS measures:

- Measure #131: Pain Assessment and Follow Up
- Measure #182: Functional Outcome Assessment

Due to the limited nature of current PQRS measure available to doctors of chiropractic, the ACA fully supports CMS' continued application of the Measure-Applicability Validation (MAV) process for doctors of chiropractic and other professions with fewer than 9 measures available for reporting. Further, ACA urges CMS to maintain the measures stated above as well as consider continuation of the MAV process as they further define the quality measures performance categories of the Merit-Based Incentive Payment System (MIPS).

### ***Request for Input on the Provisions Included in the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)***

#### ***The Merit-Based Incentive Payment System (MIPS)***

The ACA fully supports the provision in MACRA that requires the creation of the Merit-Based Incentive Payment System (MIPS) and combine current quality incentive programs into one comprehensive program. We appreciate the creation of a more streamlined approach which will alleviate much of the administrative and participation burdens physicians currently have with maintaining participation in three separate programs. We believe this will result in a physician's ability to focus more on providing quality patient care.

#### ***Low-Volume Threshold***

As CMS considers how to select a low-volume threshold to apply for purpose of excluding certain eligible professionals from the definition of a MIPS eligible professional, the ACA urges CMS to examine thresholds that apply to other programs as well as the effectiveness of those thresholds. Additionally, it may be helpful to consider data on the barriers providers have to fully participate in current quality incentive programs such as PQRS and the EHR Incentive Program. The ACA is willing to work with CMS

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<sup>1</sup> Brandeis University, Report to Congress on the Evaluation of the Demonstration of Coverage of Chiropractic Services Under Medicare, June 16, 2009, page 7.

to identify and address barriers for the chiropractic profession as well as to develop strategies to keep doctors of chiropractic engaged in quality reporting initiatives.

#### *Clinical Practice Improvement Activities*

The ACA supports the use of clinical practice improvement activities as one of the performance categories used in determining the composite performance score under MIPS. However, the provision includes items such as “population management,” “care coordination, such as timely communication of clinical information,” and “establishment of care plans.” All of these clinical activities require a physician’s ability to furnish and bill for E/M services to properly evaluate and manage a patient’s condition(s), order necessary testing, develop an appropriate treatment plan, perform Chiropractic Manipulative Treatment (CMT) or other appropriate service, and counsel the patient on risk avoidance and health promotion activities. It is critical to note, while well intentioned overall, the subcategories specified by the Secretary for a performance period created an initiative that would be essentially closed to any non-MD/DO providers. Doctors of chiropractic have been recognized as physicians in Medicare since the Social Security Amendments in 1972, and follow the same rules and policies as other physicians delivering high quality services to the Medicare population. However, the profession faces the prospect of inequitable payment updates solely on the basis of their licensure (DC).

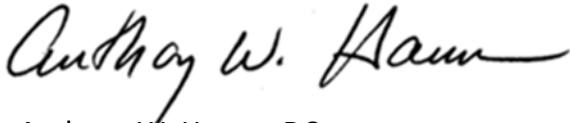
#### *Resource Use Measurement and Chronic Care Management*

The ACA is greatly concerned that the MACRA provision related to improving resource use measurement by developing episodes of care and patient condition and classification codes, as well as chronic care management provisions, denies non-MD/DO providers, including doctors of chiropractic, from participating due to the use of a limiting definition of physician found at subsection 1861(r)(1) of the Social Security Act. Doctors of chiropractic are primary spine care physicians, and provide key treatment for a range of conditions that impact America’s seniors and are essential to ensuring the success of a program aimed at providing better care at lower costs. As the agency continues their efforts to refine the MACRA provisions, the ACA strongly urges the agency to take into account the importance of non-MD/DO providers in the management and coordination of Medicare patients’ health care needs. CMS would be remiss to ignore the critical role of non-MD/DO providers by not expanding the scope of these provisions.

The ACA feels it is critical that we express again that there are multiple issues within this proposed rule that will restrict the chiropractic profession’s ability to participate appropriately and with any level of basic parity due to a doctor of chiropractic’s inability to report Evaluation and Management (E/M) services. In the Calendar Year 2014 Medicare Physician Fee Schedule proposed rule, CMS sought comments to determine whether to expand Medicare coverage to include E/M services provided by doctors of chiropractic. Subsequently, in the CY 2014 final rule, CMS stated “Any possible changes to our current policy on allowing chiropractors to bill E/M services will be addressed in future notice and comment rulemaking.” However, since that time, this issue has not been addressed in any proposed or final rule. Given the prevalence of acute and chronic musculoskeletal conditions in today’s society, and the growing research support for conservative chiropractic care, it is axiomatic that chiropractic care be a covered and integrated condition-based service, rather than a limited intervention (i.e., “manual manipulation of the spine to correct a subluxation”) in a modern, value-based health care system. All other physician-level practitioners have provisions for E/M reimbursement under the Medicare Payment system. Chiropractic should no longer be the exception.

Once again, the ACA appreciates the opportunity to provide comments on the CY 2016 MPFS proposed rule. If you should have any questions, please feel free to contact Meghann Dugan-Haas, Director of Federal and Regulatory Affairs, at (703) 812-0242. Thank you.

Respectfully,

A handwritten signature in black ink that reads "Anthony W. Hamm". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Anthony W. Hamm, DC  
President

Cc: Alesia Hovatter  
Christine Estella, JD