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ACA CHIROPRACTORS  Hands down better™

October 5, 2020

The Honorable Seema Verma, MPH  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

**Re: Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies (the “Proposed Rule”)**

Dear Administrator Verma:

The American Chiropractic Association (ACA) appreciates the opportunity to comment on the *Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies (“Proposed Rule”)* released on August 3, 2020.

ACA is the largest professional organization in the United States representing doctors of chiropractic (DCs). ACA members lead the chiropractic profession through collaborative relationships in public health, support for research and evidence-based practice, and the active reporting of functional outcome assessment measures to ensure the health and well-being of the estimated 35 million Americans who seek chiropractic care each year. ACA supports the Centers for Medicare & Medicaid Services (CMS) in its effort to revalue and revise existing office-based, evaluation and management (E/M) codes, but **strongly objects** to the severe and inequitable conversion factor (CF) and national uniform relative value units (RVU) reductions in the proposed rule. Beyond the immediate impact these cuts would have on Medicare providers and patients, as private sector payers utilize the Physician Fee Schedule (PFS) when determining and ultimately setting payment rates, the consequences will be wide-spread and long term.

Due to the COVID-19 Pandemic, doctors of chiropractic, like our colleagues across the U.S. health care system, have and continue to face unprecedented economic hardship, but have not wavered in commitment to patient care.<sup>1</sup> Doctors of chiropractic (DCs) are primary-contact health care providers who deliver essential care, including the management of acute and urgent musculoskeletal conditions like neck and low back pain.

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<sup>1</sup> Johnson, Claire D et al. “Response of Practicing Chiropractors during the Early Phase of the COVID-19 Pandemic: A Descriptive Report.” *Journal of manipulative and physiological therapeutics*, S0161-4754(20)30122-6. 13 Jun. 2020, doi:10.1016/j.jmpt.2020.05.001

Classified as “*essential*” by the Department of Homeland Security (DHS),<sup>2</sup> DCs are educated and licensed to diagnose, treat, and co-manage patients and work in private practices, multi-disciplinary clinics and hospitals across the country. Throughout the COVID-19 pandemic, DCs have continued to treat patients who may otherwise seek emergency care, helping to lessen the strain on frontline providers. Adopting the proposed rule as currently written would further impinge the economic recovery of our nation’s chiropractic physicians at a time when they are most needed.

ACA understands the statutory requirements of budget neutrality and while CMS must offset payment service increases with reductions to other services, reductions set forth in the Proposed Rule disproportionately impact doctors of chiropractic, who already face severe restrictions in services under Medicare. We urge CMS to utilize its regulatory authority to meet statutory requirements *and* alleviate inequalities in the Proposed Rule and consider one of the following ways:

- Eliminate or significantly mitigate the CF reduction and disproportionate impact on doctors of chiropractic – We urge CMS to, as has been done in the past, employ its authority to waive the statutory Budget Neutrality provision in the final rule for *at least* the duration of the current Public Health Emergency.
- Delay implementation of the national uniform relative value units (RVU) reductions until clarification from CMS and stakeholder input can be collected. RVU reductions in the proposed rule will significantly and disproportionately impact doctors of chiropractic, especially those impacted by regional, mandatory closures and limitations on patient care during the early pandemic. ACA specially requests clarification from CMS on the methodology utilized to value and set the proposed RVU reductions. Without transparent and quantitative practices, the reductions as proposed are presumed to be inequitable and arbitrary.
- Reassess the Budget Neutrality Adjustment formulation to include prior stakeholder comments and account for the impact of COVID-19 on beneficiary utilization of E/M services and visits. We urge CMS to consider a base period that will capture an accurate understanding of Medicare fee for service claims during the pandemic.

ACA urges CMS to consider how such drastic cuts will impact Medicare beneficiaries at a time when seniors are particularly at risk of health and economic complications from COVID-19. Reductions in reimbursement during a Public Health Emergency is counter to the very mission of CMS and dangerous for patients, especially those in rural and underserved areas with few Medicare providers. During this unprecedented time, the nation and our entire health care system should be supported, not undercut.

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<sup>2</sup> <http://www.acatoday.org/News-Publications/Newsroom/News-Releases/Department-of-Homeland-Security-Identifies-Chiropractors-as-Essential-Service-Providers>

ACA appreciates the opportunity to comment on the proposed rule and we look forward to continued engagement as we work towards our shared goal of providing high quality care to patients.

Sincerely,

A handwritten signature in black ink that reads "Robert C. Jones, DC". The signature is written in a cursive style with a large, stylized initial 'R'.

Robert C. Jones, DC  
President