American Chiropractic Association

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November 12, 2013

The Honorable Dave Camp
Chairman
House Ways & Means Committee
341 Cannon House Office Building
Washington, DC 20515

The Honorable Max Baucus
Chairman
Senate Finance Committee
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairmen Camp and Baucus:

The American Chiropractic Association (ACA) is a professional society composed of doctors of chiropractic (DC) whose goal is to promote the highest standards of ethics and essential patient care, contributing to the health and wellbeing of millions of patients. The ACA is the largest association in America representing the chiropractic profession. The ACA appreciates the opportunity to provide comments on the discussion draft regarding Sustainable Growth Rate (SGR) repeal and Medicare physician payment reform.

The ACA would like to begin by thanking the House Ways & Means and the Senate Finance Committees for continuing to make this critical issue a top priority. We agree that, considering the Congressional Budget Office's estimated cost to repeal the SGR formula and the need to eliminate the formula that is fundamentally broken and creates an annual budgetary dilemma for Congress and physicians, 2013 is the year to complete this necessary action in a fiscally responsible way. It is also critical that any new payment system implemented recognizes and rewards providers for high quality, cost-effective, and efficient care.

The ACA fully supports the proposal to combine current quality incentive programs into one comprehensive program. We appreciate the committees' attention to creating a more streamlined approach to alleviating 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.

Under the proposed Value Based Performance (VBP) Payment Program, we support transition of the current quality measures utilized in the Physician Quality Reporting System (PQRS) to meet the quality category. We also appreciate the proposal that would allow funding, on an annual basis, to develop new, and/or improve upon already utilized, quality measures that are meaningful to the patients served as well as clinically useful to individual providers. We encourage the inclusion of medical specialty societies in the development of meaningful quality measures and clinical improvement activities using a standard process. 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 also encourage you to ensure participation of various consensus-based organizations in this process, such as AQA Alliance, National Quality Forum (NQF), National Committee on Quality Assurance (NCQA), URAC (formerly known as the Utilization Review Accreditation Commission), Quality Insights of Pennsylvania (QIP), and the Physician Consortium on Performance Improvement (PCPI). Each of these organizations has experience in this process and it will be important to bring as much expertise to the table as possible.

We do have concerns, however with information on page 3 of the proposal, under "Quality measures." It is stated, "Professionals would be given credit for attainment and achievement, with higher overall weight given to outcome measures." This clause would essentially eliminate DCs, since the profession currently has no process for providing outcomes, without the use of E/M codes. It will be important to give special attention to provider groups that have not established sufficient quality measures or have outstanding issues preventing them from maximum participation in quality initiatives. Unfortunately, doctors of chiropractic have been precluded from a number of reportable measures, such as the back pain measures group, under the Physician Quality Reporting System (PQRS) due to their limited coverage under Medicare. Although clinically and legally required (e.g., licensure, Medicare) to take a history, perform an examination, and establish diagnoses and treatment plans, like other physician level providers, DCs are not covered for reimbursement under Medicare for Evaluation and Management (E/M) CPT® codes. As quality or value-based care dictates, the majority of performance measures (e.g., effectiveness, cost-effectiveness, outcomes) are diagnosis specific and therefore coverage of E/M codes is mandatory to report these measures. Going forward, it will be important to consider that doctors of chiropractic have historically had coverage for these services in fee-for-service, third party payer programs, as well as other federal programs (e.g., Department of Veterans Affairs and Department of Defense health care delivery systems and the Federal Employees Health Benefits Plan), and should therefore be included in essential coverage in the new payment systems.

The use of the current value based modifier methodology to develop the standards to meet the resource use category is also supported by the ACA. We agree that, in a new physician payment system, it will be necessary to provide differential payments to a physician or physician group based upon the quality of care they furnish, compared to the cost of care, during a respective performance period. However, the ACA is again concerned that the chiropractic profession would be precluded from participation in the Resource use category due to the information in the following statement: "The proposal would also establish a process to involve professionals in furthering the measurement of resource use through **identifying episodes of care** and require them to indicate their specific role in treating the beneficiary (e.g., primary care or specialist) and the type of treatment (e.g., chronic condition, acute episode) on the claim form rather than having this determined by a formula." **[emphasis added]** We believe "identifying episodes of care" will be impossible for DCs to address without the ability to report E/M services; therefore, the profession would be precluded from participation.

The ACA also supports the use of clinical practice improvement activities as a way to prepare physicians to transition to advanced Alternative Payment Models (APMs). However, the proposal addresses items such as "population management," "timely communication of clinical information," and "establishment of care plans." All of these activities require a physician's ability to furnish and bill for E/M services to properly evaluate and diagnose a patient's condition(s), order any additional testing needed, set an appropriate treatment plan, perform a Chiropractic Manipulative Treatment (CMT) service, and counsel the patient on risk avoidance and health promotion activities. Additionally, as noted in the proposal, many of these criteria are components of medical homes. It is critical to note that previous proposals, while well intentioned overall, undermined the Federal statute defining physician providers (Section 1861 (r) of the Social Security Act) and, without foundation or precedent, created a provider classification for update incentives that would be 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. Therefore, it is important that further discussion of this category include input from the chiropractic community to ensure that the profession does not face the prospect of inequitable payment updates solely on the basis of their licensure. This proposal is looking to recognize and reward value and quality of care and it is necessary to ensure that future iterations do not undo past patient choice and health care competition gains by establishing a specially protected class of physicians.

The ACA fully supports continued requirements for physicians to utilize certified Electronic Health Record (EHR) systems to demonstrate meaningful use in a new payment system. Since the launch of the Medicare EHR

Incentive Program in 2011, members of the chiropractic profession have been, and remain committed to the Program.

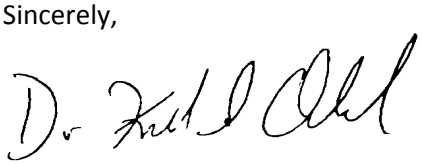
With regard to Performance Assessment, the ACA appreciates the proposal to make available a group-level quality-reporting credit to groups reporting to a qualified data registry. While the ACA is not currently utilizing patient registries, we realize the importance they serve in improving quality patient care and are actively seeking opportunities to participate with a registry in the near future. With this in mind, the ACA recommends that Congress consider providing assistance to those professions/providers that do not have available registries so that appropriate measures, interventions, and outcomes can be logged for effectiveness evaluation. This action will greatly assist provider participation in the new payment models.

In addition to the many items addressed in this reform proposal, we feel it necessary to stress that it is critical Medicare beneficiaries be allowed coverage for the full scope of chiropractic diagnostic and treatment services provided under state licensure. These services have been inappropriately restricted for 40 years while the research data supporting the delivery of chiropractic services, legally provided through their state licensure, has continued to expand. Current research supports a number of conditions and complaints (diagnoses), especially pertaining to the musculoskeletal system, that respond favorably and cost-effectively to chiropractic management. In addition to performing a wide range of services (e.g., chiropractic manipulative treatment, physical medicine and rehabilitation services, diagnostic imaging and testing, laboratory and other diagnostic testing/procedures, prevention and wellness services), DCs are educated and licensed in all 50 states as primary care providers trained to perform evaluation and management services, evaluating, diagnosing, and referring patients when appropriate. This is supported by the Council on Chiropractic Education Standards, recognized by the U. S. Department of Education. Expanded coverage for Medicare beneficiaries *for services that currently exist* would appear to be an obvious move toward more value-based care and would allow better participation in the future quality programs being suggested.

The ACA supports the goals presented in the proposal; however, it is critical that we express again that there are multiple issues within this request that 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 furnish and bill for Evaluation and Management (E/M) services. 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 the SGR is repealed, we support the proposal to freeze current payment levels through the ten-year budget window and allow provider groups to be involved in the development of alternate payment models (APMs). The ACA strongly supports the effort to reform the current SGR physician payment system. We appreciate your consideration of our comments as you further refine your proposal. If you should have any questions, please feel free to contact Meghann Dugan-Haas, ACA Director of Federal and Regulatory Affairs, at (703) 812-0242 or via email at mdugan-haas@acatoday.org.

Sincerely,



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