

Nov. 16, 2018

Seema Verma, MPH
Administrator
Department of Health and Human Services; Centers for Medicare & Medicaid Services
P.O. Box 8010
Baltimore, MD 21244-1810

Re: CMS-3346-P Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction

Dear Administrator Verma:

The American Chiropractic Association (ACA), the largest organization in the United States representing doctors of chiropractic (DCs), is leading the chiropractic profession in the most constructive and far-reaching ways – by working hand in hand with other health care professionals, by supporting meaningful research, and by using that research to inform chiropractic practice. ACA members pledge to adhere to the highest standards of ethics and patient care, contributing to the health and well-being of the estimated 35 million individuals across the country who seek chiropractic care each year. ACA appreciates the opportunity to provide comments on “Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction,” which was published in the *Federal Register* on Sept. 20, 2018. We offer comments and recommendations on the following topics addressed in this proposed rule:

- Documentation in general should be less burdensome
- Centers for Medicare and Medicaid Services (CMS) requirement/mandate for the chiropractor to perform a level of Evaluation and Management (E/M) documentation without reimbursement from CMS

Documentation in general should be less burdensome

It is arduous for small clinics to document and perform self-audit of the service/procedure known as Evaluation and Management (E/M). We need simplification in this area as current documentation requirements complicate patient care by requiring the clinician to spend more time self-auditing to satisfy coding requirements and record redundant information. Simplification will enable chiropractors to spend more time with patients, managing symptoms/pathology, and less time trying to determine the correct code.

As noted in our comments for the 2019 Physician Fee Schedule (CMS-1693-P; “Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2019”), the American Chiropractic Association joined the American Medical Association and approximately 170 other healthcare organizations in urging rapid adoption of proposed changes in CMS Evaluation and Management (E/M) services documentation requirements intended to decrease administrative burden. In particular, ACA’s previous comments commended CMS plans to 1) focus patient history documentation requirements on the time interval following the previous visit only; and 2) eliminate the

need for physicians to re-document information that has previously been added to the patient record by either the patient or the doctor's staff. These issues are particularly relevant to alleviating the administrative burden of chiropractic physicians, who often work in solo practices and adhere to clinical care pathways that call for multiple patient visits over a period of several weeks. Since doctors of chiropractic are not allowed to bill Medicare for E/M services, it is very important that any changes in E/M documentation standards are also reflected in the chiropractic documentation standards currently used by CMS to audit doctors of chiropractic as part of the Comprehensive Error Rate Testing (CERT) program.

CMS requirement/mandate for the chiropractor to perform a level of E/M without payment/reimbursement

ACA would like to use this opportunity to once more reiterate our strong concerns regarding a doctor of chiropractic's inability to report and be reimbursed for E/M services under the current Medicare Payment System. In the Calendar Year (CY) 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."

Since that time, however, 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, the ongoing opioid crisis and the growing research support for conservative chiropractic care,¹ it is obvious that chiropractic care should be a covered and integrated condition-based service in today's value-based healthcare system, rather than a limited intervention (i.e., "manual manipulation of the spine to correct a subluxation").² All other physician-level practitioners have provisions for E/M reimbursement under the Medicare payment system. Doctors of chiropractic should not be the exception.

Once again, ACA appreciates the opportunity to provide comments on CMS-3346-P, "Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction." If you have any questions regarding ACA's comments, please contact John Falardeau, ACA senior vice president for public policy and advocacy, at (703) 812-0214 or jfalardeau@acatoday.org.

Respectfully,



N. Ray Tuck, Jr., DC
President, American Chiropractic Association

¹ Goertz CM, Long C, Vining R, Walter J and Coulter I. Effect of Usual Medical Care Plus Chiropractic Care vs Usual Medical Care Alone on Pain and Disability Among U.S. Service Members With Lower Back Pain: A Comparative Effectiveness Clinical Trial. <https://doi.org/10.1001/jamanetworkopen.2018.0105>.

² Social Security Act §1861(r)(5)