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ACA CHIROPRACTORS



*Hands down better.*

September 9, 2023

Ms. Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1784-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

Dear Administrator Brooks-LaSure:

**RE: File Code CMS-1784-P; Medicare and Medicaid Programs; CY 2024 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payments Policies; RIN 0938-AV0781**

The American Chiropractic Association (ACA) submits the following comments regarding the Centers for Medicare and Medicaid Services (CMS) proposed regulation to implement changes to the physician fee schedule (PFS), Medicare Part B payment policies, and other areas of the Medicare program. ACA comments are directed specifically to the rule's physician payment reductions, delayed implementation of the Medicare Economic Index (MEI), a new MIPS Value Pathway (MVP) reporting for certain providers, specifically chiropractors, and issues involving the referral and ordering of services. ACA greatly appreciates the opportunity to comment on the proposed rule and offer the perspectives of our members who specialize in diagnosing and treating chronic and acute pain.

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.

### **Physician Fee Schedule Reductions**

Chiropractors and other clinicians are once again facing large, proposed cuts of more than 3.36% for CY 2024. While Congress has provided temporary partial fixes to physician payment in the last several years, its latest fix in the Consolidated Appropriations Act, 2023 (CAA, 2023), enacted at the end of 2022, does not offset all the proposed cuts in this rule. In all, the budget neutrality constraints of the fee schedule continue to result in a negative proposed conversion factor (CF) update. The 2024 proposed physician CF represents a decrease of approximately **3.36%** from the 2023 CF. Coupled with a 2% cut in reimbursement as shown in table 104, chiropractors are facing a combined reduction of reimbursement of over 5%.

The failure of the PFS to keep pace with the true cost of providing care, combined with year-over-year cuts resulting from the application of budget neutrality, sequestration, and a paucity of available alternative payment model/value-based care models, clearly demonstrates the Medicare payment system is fragmented. The addition of an inflationary update will provide budgetary stability as clinicians-many of whom are small business owners-

contend with a wide range of shifting economic factors, such as increasing administrative burdens, staff salaries, office rent and purchasing essential technology.

### **Rehabilitative Support for Musculoskeletal Care MVP**

For 2024, CMS is proposing an episode-based cost measure MVP regarding Rehabilitative Support for Musculoskeletal Care. The proposal creates 10 quality measures within the quality performance category, which promote rehabilitative support for patients.

ACA is pleased that chiropractors are specifically designated as a provider group that can perform this measure. However, while chiropractors utilize E/M codes as part of their standard course of care, by federal statute the codes are not payable under Medicare. This limitation in the model would severely limit the ability of chiropractors practicing in Medicare to demonstrate the true value they would provide by participating in the proposed MVP.

Additionally, ACA has concerns that the MVP as currently proposed is exclusionary to data collection due to attribution obstacles. The future shortage of “Medical” providers to include access issues will require recognition of qualified health professionals (non-MD) to deliver care through an access point. The system proposed is top down driven and geared to large clinic organizations. Attribution needs to take into consideration all access points inclusive of modern healthcare delivery options if we are to measure the outcomes of care across all provider groups. Value-based reimbursement obtained through advances in data systems and data analytics has changed dramatically. Integration of qualified health care providers are now able to implement value-based contracting critical to a provider’s ability to function and thrive in the coming years. The concern is exclusionary language within current Medicare regulations established over 50 years ago creates a barrier for Clinically Integrated Networks (CINs) to take substantial steps over time to integrate their clinical functions in a meaningful manner that enables them to engage in value-based contracts with payers. The ACA welcomes the opportunity to highlight the value chiropractors can provide to the Medicare program, but these extreme limitations must be addressed before considering further participation.

### **Ordering/Referring Beneficiary Services**

In addition to the aforementioned MVP, we applaud CMS for recent initiatives focused on expanding access to services that align with modern standards of care, which increasingly include integration and collaboration, such as chronic pain management (CPM) services, and strive toward increased value delivery. DCs are increasingly practicing in integrated care delivery settings and more commonly participating in coordinated care through collaboration within and from outside health systems. Still, Medicare beneficiaries are unable to receive this type of efficient and effective care because Chiropractic Medicine was removed as an approved provider specialty for ordering or referring beneficiary services.

### **Medicare Economic Index (MEI)**

In the proposed rule, CMS proposes to continue to delay the implementation of the 2017-based MEI that was finalized in CY 2023. In CY 2023 CMS proposed to use a new benchmark to update the MEI weights by using data compiled in the United States Census Bureau’s Service Annual Survey. This approach would be a departure from previous CMS practice which has been to rely on data from the American Medical Association’s Physician Practice Information (PPI) Survey. However, in CY 2024, CMS recognizes that this change is significant and proposes to continue to delay implementation of the 2017-based MEI, citing the AMA’s ongoing data collection to update the Physician Practice Information Survey (PPIS) of which ACA is participating. Here, ACA supports CMS’ proposal to delay the implementation of proposed changes to MEI methodology until the PPI survey is complete, and we

would further recommend that CMS continue to use the PPIS data rather than the Census Bureau survey. We believe this would ensure consistency and use of a system that has proven to provide accurate data for the MEI.

ACA appreciates the opportunity to provide comments on the CMS proposed Rule. If you have any questions regarding our remarks, please contact John Falardeau, ACA Senior Vice President for Public Policy and Advocacy at [jfalardeau@acatoday.org](mailto:jfalardeau@acatoday.org) or (703) 812-0214.

Sincerely,

A handwritten signature in black ink that reads "Michael Martin, DC". The signature is written in a cursive, flowing style.

Michael Martin, DC  
President