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ACA CHIROPRACTORS



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October 5, 2023

The Honorable Jason Smith
Chairman
Committee on Ways and Means
1100 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
1100 Longworth House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal:

RE: Request for Information (RFI): Improving Access to Health Care in Rural and Underserved Areas

The American Chiropractic Association (ACA) submits the following comments regarding the Ways and Means Committee's RFI on improving access to health care in rural and underserved areas. ACA's comments are directed specifically to the role of chiropractors in rural settings, barriers to patient access to care, and disparities in provider reimbursement. ACA greatly appreciates the opportunity to comment on the committee's RFI 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.

The Role of Chiropractors in Rural Settings

In many parts of the country, and especially in the Midwest, DCs in rural areas view themselves — and are likewise viewed by their patients — as primary care physicians. Chiropractors provide a broad scope of health care services around the country, especially in rural areas, underscoring how DCs serve as important resources to the nation's primary healthcare system.

Rural DCs work collaboratively with medical providers and, as such, offer services more closely related to primary care. The level of care provided is of course determined by a chiropractor's state licensure, but many chiropractors offer in-office laboratory facilities for services such as urinalysis and blood work. Both rural and urban chiropractors treat large numbers of patients with neuromusculoskeletal (NMS) conditions, such as neck and back pain, headaches and other conditions related to the extremities.

DCs and general practice medical doctors are increasingly complementing each other in the healthcare delivery system, especially in rural areas. By doing so, each profession enhances the system's capacity to offer primary care — with DCs offering primarily NMS care. Encouraging greater collaboration between medical and chiropractic providers is consistent with the imperative to enhance cooperation among all primary care disciplines for the purpose of improving healthcare delivery to rural populations.

One glaring aspect of rural health care is the current crisis of opioid abuse and overuse. Many people in rural areas work jobs in industries such as mining, manufacturing, and agriculture that often lead to chronic pain or injuries. Historically, back pain has been one of the most common reasons why opioids were prescribed to patients, yet research shows there is no evidence that opioids provide clinically significant relief for chronic low

back pain.¹ In addition, as many as one in four people who receive prescription opioids long term for non-cancer pain in primary care settings struggle with addiction.² A growing body of research shows that early intervention with chiropractic services can have a significant impact by decreasing the long-term use of prescription opioid pain medications for some patients.³

Barriers to Patient Access to Care

The Medicare rolls in this country are expanding in rural areas, as they are everywhere. With practitioner shortages and facility closures in rural areas limiting access to care, a chiropractic physician may be the only available licensed healthcare provider in a given area. In such cases, Medicare beneficiaries in rural areas are especially burdened as access to chiropractic services is limited under federal statute.⁴ Fortunately, bipartisan legislation in both the House and the Senate (H.R. 1610/S 799)⁵ would eliminate this arbitrary barrier and allow patients to access all Medicare-covered services a chiropractor is allowed under their state licensure to provide. We urge Congress to pass this legislation during the current session.

The National Health Service Corps is comprised of different types of healthcare professionals who help provide much-needed healthcare services in a variety of geographic areas across the nation known as Health Professional Shortage Areas (HPSAs). In addition to designated geographic areas, a number of individual facilities are also designated as HPSAs (typically federally qualified community and rural healthcare centers). Unfortunately, doctors of chiropractic are excluded from NHSC participation. Patients living in HPSA-designated areas or receiving care through HPSA-designated sites could benefit greatly from access to non-surgical, non-pharmaceutical services for pain management provided by DCs. To attract and recruit chiropractors to NHSC, we urge Congress and especially the Health Resources and Services Administration (HRSA) to add chiropractors to the list of providers eligible for NHSC participation.

Related to NHSC, we urge Congress and the administration to expand the hiring of non-MD providers at Federally Qualified Health Center (FQHCs) and especially at Rural Health Centers (RHCs). There are more than 4,000 RHCs across the country; however, the healthcare needs of rural populations are diverse and not adequately addressed in the current system. The use of interdisciplinary teams, operating in a community base, is recommended as one way to better serve rural needs — yet chiropractors are not routinely included on such teams. Interprofessional barriers to the integration of chiropractic providers must be eliminated. These include things such as the lack of a chiropractic role, the lack of knowledge of chiropractic practice and training, and the lack of acceptance of chiropractic among some in the medical community.

Additionally, 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 (e.g., chronic pain management services) and strive toward increased value delivery. More frequently than ever before, DCs practice in integrated-care delivery settings and participate in coordinated care through collaboration both within and outside health systems. However, 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. We urge CMS to restore chiropractic medicine to the list of approved provider specialties for ordering or referring beneficiary services.⁶

¹ Opioids for Low Back Pain; BMJ 2015; 350: g6380 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6882374/>

² Risk factors for drug dependence among out-patients on opioid therapy in a large US health-care system. *Addiction* 2010;105:1776–82. <https://pubmed.ncbi.nlm.nih.gov/20712819/>

³ American Chiropractic Association <https://www.acatoday.org/education-events/national-chiropractic-health-month/campaign-toolkit/nchm-key-facts-and-figures/>

⁴ Social Security Act §1861(r)(5)

⁵ <https://www.congress.gov/bill/118th-congress/house-bill/1610>

⁶ Expansion of the Current Scope of Editing for Ordering/Referring Providers for Claims Processed by Medicare Carriers and Part B Medicare Administrative Contractors (MACs) – JA6417, <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/JA6417.pdf>

Disparities in Reimbursement

Under the proposed Medicare Physician Fee Schedule (MPFS)⁷ chiropractors and other clinicians are once again facing 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 of 2023 (CAA 2023), enacted at the end of 2022, does not offset all the proposed cuts in this proposed 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 104,⁸ chiropractors are facing a combined reduction in reimbursement of more than five percent.

The failure of the MPFS 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 that 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. While Congress has taken action to mitigate some of the recent MPFS cuts on a temporary basis, reimbursement continues to decline. According to an American Medical Association analysis of Medicare Trustees data, when adjusted for inflation, Medicare payments to clinicians have declined by 26% from 2001-2023.⁹

We also urge Congress this session to pass H.R. 2474, the Strengthening Medicare for Patients and Providers Act.¹⁰ The bipartisan bill would apply a permanent inflation-based update to the Medicare Physician Fee Schedule (MPFS) conversion factor, which will in turn provide much-needed stability to the Medicare payment system as our members contend with an increasingly challenging environment.

Still another pressing issue regarding reimbursement is the administration's lagging rulemaking process regarding section 2706(a) of the Public Health Service Act. This provision establishes federal non-discrimination protections for providers acting within the scope of their licensure in terms of participation and reimbursement under health insurance and group health plans (specifically group health plans and health insurance issuers offering group or individual health insurance coverage). The law provides that the various states may enforce the provisions of 2706(a) and, if the states fail to do so, the federal government "shall enforce" Section 2706(a) when a "State has failed to substantially enforce" the law. Despite this clear direction to all parties, neither the states nor the federal government have taken steps to enforce 2706(a).

Because this administration, and those previous, have not promulgated a rule regarding this provision, Section 108 of the Consolidated Appropriations Act of 2021 required the applicable federal agencies to issue a final rule implementing the protections of section 2706(a) within six months of enactment. That rulemaking process is now more than two years overdue. We urge Congress once again to direct the three agencies involved in this process — Health and Human Services, Labor, and Treasury — to expedite development of a proposed rule and release it for public comment in the immediate future.

To improve access to care in rural and underserved areas, research has shown that policy makers should consider the full complement of providers, including chiropractors.¹¹ ACA appreciates the opportunity to provide

⁷ <https://www.federalregister.gov/documents/2023/08/07/2023-14624/medicare-and-medicaid-programs-cy-2024-payment-policies-under-the-physician-fee-schedule-and-other>

⁸ Ibid, p. 52680

⁹ Medicare updates compared to inflation (2001-2023) AMA, April 2023; <https://www.ama-assn.org/system/files/medicare-updates-inflation-chart-cumulative.pdf>

¹⁰ <https://www.congress.gov/bill/118th-congress/house-bill/2474>

¹¹ Chiropractic Health Care in Health Professional Shortage Areas in the United States; American Journal of Public Health; Dec. 2002 <https://ajph.aphapublications.org/doi/10.2105/AJPH.92.12.2001>

comments on the committee's RFI. If you have any questions regarding our remarks, please contact me at jfalardeau@acatoday.org or (703) 812-0214.

Sincerely,

A handwritten signature in black ink, reading "John Falardeau". The signature is fluid and cursive, with a long, sweeping horizontal line extending from the end of the name.

John Falardeau
Senior Vice President, Public Policy and Advocacy
