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ACA CHIROPRACTORS



*Hands down better.*<sup>TM</sup>

September 9, 2024

Ms. Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1807-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

Dear Administrator Brooks-LaSure:

**RE: File Code CMS-1807-P; Medicare and Medicaid Programs; CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payments Policies; RIN 0938-AV33**

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 Medicare physician fee schedule (MPFS), 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), revising the 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**

CMS proposes a PFS conversion factor (CF) of \$32.36 for Calendar Year (CY) 2025, reflecting a 93-cent (or 2.8 percent) decrease from the current CF of \$33.29. This conversion factor accounts for the statutorily required zero percent overall update for CY 2025, which incorporates expiration of the 2.93 percent increase in payment for CY 2024 required by statute and a small estimated 0.05 percent adjustment necessary to account for changes in work relative value units (RVUs) for some services. Table 128 in the proposed rule shows the impact by specialty, showing chiropractors with a one percent increase. Notably, however, the table does not reflect the statutory fix, which expires on December 31, 2024. Thus, the actual impact on specialties would be approximately 2.93 percent lower than what is shown in Table 128. Ultimately, the rule outlines the limitations of the current fee schedule structure. While Congress has provided temporary partial fixes to physician payment in the last several years, the relief expires at the end of 2024 unless legislation is passed.

Additionally, the proposed payment reduction will coincide with an expected 3.6% increase in medical practice cost inflation, as measured by the MEI. When adjusted for inflation, Medicare physician payments have declined by 29% from 2001 to 2024.<sup>1</sup> This is clearly not a sustainable trajectory.

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 the Medicare payment system is fragmented. The addition of an inflationary update will provide budgetary stability as chiropractors-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 2025, CMS is again proposing to modify an episode-based cost measure MVP regarding Rehabilitative Support for Musculoskeletal Care. The proposal adds five quality measures, adds one improvement activity and removes two improvement activities, all of which are again aimed at promoting rehabilitative support for beneficiaries.

As we commented last year, ACA is pleased that chiropractors are specifically designated as a provider group that can perform this measure. However, while chiropractors utilize evaluation and management codes as part of their standard course of care, by federal statute the codes are not payable under Medicare. This limitation in the model still severely limits 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 smaller and rural practices due to attribution and data collection obstacles. The future shortage of “Medical” providers to include access issues will require recognition of non-MD/DO qualified health professionals (QHPs) to deliver care through an access point. The system proposed is top-down driven and geared to large clinic organizations. Value-based reimbursement obtained through advances in data systems and data analytics has changed dramatically. Still, small and rural sites face challenges reporting using Qualified Clinical Data Registries (QCDRs) due to limited access to such tools. The concern is exclusionary language within current Medicare regulations established over 50 years ago creates a barrier for new models 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, such as in environments unburdened by statutory limitations interfering with care delivery innovations. Such extreme limitations must be addressed before considering further participation.

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

In addition to the 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.

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<sup>1</sup> <https://www.ama-assn.org/system/files/2024-medicare-updates-inflation-chart.pdf>.

**Physician Practice Information Survey**

ACA has worked with the American Medical Association and other specialty societies to educate and support practices participating in the PPIS. We agree with CMS that the PPIS is the most comprehensive source of practice expense (PE) survey information available. Still, with emerging and increasing burdens of prior authorization, delayed payments, and reduced payments, we again assert the need for substantive changes to the fragmented Medicare payment system.

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, appearing to read "Leo Bronston, DC, MAppSc". The signature is fluid and cursive, with a large initial "L" and "B".

Leo Bronston, DC, MAppSc  
President