

October 20, 2009

Kathleen Sebelius, Secretary
Health and Human Services
200 Independence Ave. NW
Room 603-H
Washington DC 20201

Dear Madame Secretary,

The 18 undersigned organizations, representing more than 600,000 physician and health care professionals that serve the elderly and disabled Medicare population for a vast number of chronic, debilitating and acute diseases and conditions *including cancer* are writing in response to a recent Dear Colleague and Congressional sign-on letter sent out regarding implementation of the physician fee schedule for 2010.

Our organizations encourage you to support finalizing the CMS 2010 Physician Fee Schedule rule to implement the new Physician Practice Information Survey (PPIS) survey data on practice expenses, which was the most comprehensive, methodologically sound effort to date to improve relative payment accuracy. Not using these data would reduce most payments in 2010 for the sake of groups who have been receiving relatively high payment amounts for several years. Our organizations are very concerned about the effects of CMS reversing their proposed changes and maintaining the distortions of the past.

Our primary concern is that Medicare use the ***most current and accurate data*** to determine relative practice expense (PE) payments for all Medicare Part B providers. MedPAC and the GAO have been calling for CMS to update its practice and expense data since 2004 because of the distortion and inequity created by differing data sets CMS is currently using for specialties. The Physician Practice Information Survey (PPIS) was launched by the AMA and 52 physician and non-physician provider groups in 2006 and completed in the spring of 2009. The results were used by CMS to recalculate practice expenses for the 2010 Physician Fee Schedule. We believe the PPIS accomplished precisely what it set out to do, which was create a consistent methodology for data collection for all Part B providers, and that CMS is obligated by Congressional statute to implement these data as opposed to reverting to data that were based on self-selected methodologies that lacked the rigorous process the AMA followed for the PPIS.

Some specialties are scheduled to receive relatively negative updates for 2010 based only partially on changes from the PE inputs. The largest proportion of the negative impact is actually based on other, unrelated CMS proposals such as resetting equipment utilization assumptions for 2010. Other organizations have offered three main arguments, outlined

below, to support their request for delay in implementing the rule and for maintaining relative payment inaccuracies of the past. We provide you with the complete and accurate, picture of what is actually occurring and rebut the distortions these groups have been making in public and private statement:

- **Practice expense costs have increased** – in 2005, CMS accepted updated practice expense data for some specialties, including cardiology and oncology, but not all providers. Because of budget neutrality, this led to a shift of payment into these updated specialties at the expense of all other providers. The 2010 proposed rule would correct this imbalance and implement data that were collected uniformly across all medical specialties at the same time. Medicare pays doctors based on relative expenses, not the actual costs. The survey data merely demonstrates that practice expenses have increased more rapidly for other specialties, and Medicare payments should be updated based on these more recent and accurate data.
- **Lack of transparency in the process** - the Physician Practice Information survey was supported by 52 specialties which had input into the design, testing and implementation of the survey. Input was sought by the AMA throughout the process from all participating physician and health care professional organizations. In addition, the AMA worked with The Lewin Group, (a CMS contractor), to ensure that all data were analyzed consistently. The entire data process was overseen according to CMS' strict criteria for the gathering and submission of this type of PE survey data. Responses which did not meet the stated criteria were excluded, along with response outliers and responses that were statistically unacceptable. The Lewin Group independently corroborated the results and recommended that CMS use the data. CMS has shown its confidence in the datum by agreeing to its full implementation.
- **Study based on small sample size** – Other specialty societies are using inaccurate and dissimilar analysis when they relay their supplemental survey response rates to the PPIS rates. The supplemental surveys that were done in the past were different from the PPIS and used different selection criteria than the AMA used for the Physician Practice Information (PPI) survey. Therefore, the response rate for one is not comparable to the response of the other, a point that has been made by CMS and Lewin in their comments on the precision criterion.

These same groups have taken self-selected and self-acquired data to CMS to show how mismatched the PPIS data is to their own data. This is the exact reason why

there needs to be a randomly selected, non-biased survey performed by a professional third party entity. Such data would be far more suspect and less transparent than that which was garnered through the PPIS.

It is our firm belief that implementing the new PE survey data will improve payment accuracy and correct current inequities, which is a common goal shared by Congress, CMS, MedPAC, and the Administration. The following medical and health care organizations support this objective and have now been requesting for over a decade that CMS uniformly, fairly, and accurately update Medicare practice expense (PE) payments.

Sincerely,

American Academy of Dermatology Association
American Academy of Family Physicians
American Academy of Neurology
American Academy of Neurological Surgeons
American Academy of Ophthalmology
American Association of Orthopaedic Surgeons
American Academy of Otolaryngology-Head and Neck Surgery
American College of Emergency Physicians
American College of Obstetricians and Gynecologists
American College of Surgeons
American Optometric Association
American Occupational Therapy Association
American Physical Therapy Association
American Psychiatric Association
American Society of Anesthesiologists
American Society of Cataract and Refractive Surgeons
American Society of Plastic Surgeons
Congress of Neurological Surgeons