

October 31, 2023

The Hon. Brad Wenstrup
2335 Rayburn House Office Building
Washington, DC 20515

The Hon. Greg Murphy
407 Cannon House Office Building
Washington, DC 20515

The Hon. Michael Burgess
2161 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Wenstrup, Murphy, and Burgess:

The undersigned national medical organizations and state medical societies deeply appreciate your leadership in drafting a proposal to reform the budget-neutrality policies that have been eroding Medicare physician payment levels in recent years. Your October 4 draft legislation would add needed stability and predictability to Medicare physician payments.

As one of the few Medicare providers without a payment update tied to inflation, physicians have watched inflation-adjusted payments decline 26% from 2001 to 2023. Physician payments are further eroded by frequent and large payment redistributions caused by statutory mandates for the Centers for Medicare and Medicaid Services (CMS) to make refinements to fee schedule service valuations and coding policies subject to budget neutrality. Unfortunately, it is not uncommon for CMS to overestimate utilization assumptions related to code revaluations in its budget neutrality estimates. The most prominent example of this occurred when transitional care management (TCM) services were added to the Medicare Physician Fee Schedule in 2013. CMS estimated 5.6 million new claims would be submitted for these services. Actual utilization, however, turned out to be just under 300,000 claims for the first year and it was still less than one million claims after three years. As a result of this overestimation for TCM services alone, Medicare physician payments were reduced by more than \$5.2 billion from 2013 to 2021. Once these redistributions are made through the conversion factor they are not added back, even when actual utilization is far lower than projected. **The net result in these circumstances is not budget neutrality, but rather permanent and unjustifiable Medicare cuts to physician payments across-the-board.**

By providing a lookback period that would allow CMS to reconcile erroneous utilization projections based on actual claims, your proposal would allow the Medicare conversion factor to be re-adjusted as appropriate, while simultaneously plugging this “leak” in the Medicare physician payment pool. Your proposal would also update the spending threshold that spurs the need to apply a budget neutrality adjustment. The current threshold of \$20 million was enacted into law in 1989, when total Medicare spending was far lower. Provisions raising this amount to \$53 million and increasing it every 5 years by the cumulative increase in Medicare Economic Index (MEI) allow for greater flexibility in determining pricing and policy changes for services without triggering across-the-board cuts.

Finally, starting in 2025, the proposal would require the Secretary to limit positive or negative budget neutrality adjustments to the conversion factor to 2.5% each year, which will provide greater stability for the Medicare physician payment system by removing relatively large and abrupt changes in conversion factor calculations.

Thank you once again for your commitment to Medicare physician payment reform. Enactment of the policies in the discussion draft, combined with other reforms such as an annual payment update tied to inflation, promise to improve the financial viability of physician practices—particularly those in rural and underserved areas. We look forward to working with you and your colleagues in this endeavor.

Sincerely,

American Medical Association

AMDA—The Society for Post-Acute and Long-Term Care Medicine

American Academy of Dermatology Association

American Academy of Emergency Medicine

American Academy of Family Physicians

American Academy of Neurology

American Academy of Ophthalmology

American Academy of Otolaryngic Allergy

American Academy of Otolaryngology—Head and Neck Surgery

American Academy of Pain Medicine

American Academy of Physical Medicine and Rehabilitation

American Academy of Sleep Medicine

American Association of Clinical Urologists, Inc.

American Association of Hip and Knee Surgeons

American Association of Neurological Surgeons

American Association of Neuromuscular & Electrodiagnostic Medicine

American Association of Orthopaedic Surgeons

American College of Allergy, Asthma & Immunology

American College of Cardiology

American College of Chest Physicians

American College of Emergency Physicians

American College of Gastroenterology

American College of Lifestyle Medicine

American College of Medical Genetics and Genomics

American College of Obstetricians and Gynecologists

American College of Physicians

American College of Radiology

American College of Rheumatology

American College of Surgeons

American Epilepsy Society

American Gastroenterological Association

American Geriatrics Society

American Orthopaedic Foot & Ankle Society

American Osteopathic Association

American Society for Clinical Pathology

American Society for Dermatologic Surgery Association

American Society for Gastrointestinal Endoscopy

American Society for Laser Medicine and Surgery, Inc.
American Society for Radiation Oncology
American Society of Anesthesiologists
American Society of Cataract and Refractive Surgery
American Society of Echocardiography
American Society of Hematology
American Society of Interventional Pain Physicians
American Society of Nephrology
American Society of Neuroradiology
American Society of Nuclear Cardiology
American Society of Plastic Surgeons
American Society of Retina Specialists
American Society of Transplant Surgeons
American Urological Association
American Vein & Lymphatic Society
American Venous Forum
AMGA (American Medical Group Association)
Association for Clinical Oncology
College of American Pathologists
Congress of Neurological Surgeons
Endocrine Society
Heart Rhythm Society
International Pain and Spine Intervention Society
International Society for Advancement of Spine Surgery
Medical Group Management Association
National Association of Spine Specialists
North American Neuromodulation Society
Renal Physicians Association
Society for Cardiovascular Angiography & Interventions
Society for Pediatric Dermatology
Society for Vascular Surgery
Society of American Gastrointestinal and Endoscopic Surgeons
Society of Cardiovascular Computed Tomography
Society of Hospital Medicine
Society of Interventional Radiology
The American Academy of Allergy, Asthma & Immunology
The Society of Thoracic Surgeons

Medical Association of the State of Alabama
Alaska State Medical Association
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association, Inc.

Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society
Indiana State Medical Association
Iowa Medical Society
Kansas Medical Society
Kentucky Medical Association
Louisiana State Medical Society
Maine Medical Association
MedChi, The Maryland State Medical Society
Massachusetts Medical Society
Michigan State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
Medical Society of New Jersey
New Mexico Medical Society
Medical Society of the State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma State Medical Association
Oregon Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society