

December 14, 2021

Michael E. Chernenw, Ph.D.
Chair
Medicare Payment Advisory Commission (MedPAC)
425 I Street NW
Suite 701
Washington, DC 20001

Dear Dr. Chernenw:

On behalf of our 40,000 members, the American College of Emergency Physicians (ACEP) wishes to express our opposition to the Medicare Payment Advisory Commission's (MedPAC's) draft recommendation related to the Medicare Physician Fee Schedule (PFS) for calendar year (CY) 2023. Specifically, during a public meeting on December 10, 2021, MedPAC Commissioners debated a proposed recommendation that PFS payments be updated by zero percent in CY 2023—as is reflected in current law. While some Commissioners did express some reticence about accepting the recommendation, it appears that MedPAC is on track to including it in the March 2022 Report to Congress.

ACEP strongly believes that a zero percent update to physician reimbursement in CY 2023, which is an update Congress enacted six years ago in the Medicare Access and Chip Reauthorization Act (MACRA), is artificially low and does not nearly cover the increased cost due to inflation of providing care to Medicare beneficiaries. Overall, Medicare payment to physicians is simply inadequate. An analysis conducted by ACEP found that **Medicare payments have decreased by 53 percent when comparing Medicare payments to inflation** between the start of the Resourced-based Relative Value Scale (RBRVS) in 1992 and 2016.¹ Even the 2021 Medicare Trustees Report acknowledges that updates for physician reimbursement are not sufficient. The Trustees believe that, absent a change in the delivery system, access to Medicare-participating physicians will become a significant issue in the long term.²

MedPAC's draft recommendation also does not take into account other factors that impact Medicare physician reimbursement, including the ongoing 2 percent sequester and the required budget neutrality adjustments under the PFS. Congress has had to take action year after year to avert significant reductions to payments. Most recently, Congress enacted the Protecting Medicare and American Farmers from Sequester Cuts

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¹ The ACEP analysis is available at: <https://www.acep.org/globalassets/uploads/uploaded-files/acep/advocacy/state-issues/medicare-versus-inflation.pdf>.

² The 2021 Medicare Trustees Report is available at: <https://www.cms.gov/files/document/2021-medicare-trustees-report.pdf>.

Act, which averts most of the Medicare cuts that were slated to go into effect in January 2022. However, even after this latest Congressional action, Medicare providers still have to absorb a 0.75 percent cut to the CY 2022 Medicare conversion factor and begin to face a full 2 percent sequester starting in the third quarter of the year. Further, since the fix only lasts one year, the Centers for Medicare & Medicaid Services (CMS) will likely propose a cut of 3 percent to the CY 2023 conversion factor in the CY 2023 PFS proposed rule—setting up, yet again, a need for Congress to act to avert further cuts.

This is simply unsustainable, and Medicare providers need a stable level of reimbursement—especially considering what we have faced during the COVID-19 public health emergency (PHE). Over the last twenty months, it has been more expensive than usual to provide appropriate care to the patients. With respect to emergency medicine particularly, emergency physician groups have had to incur additional expenses for treatment, such as developing and implementing protocols for alternative sites of care, enhancing telehealth capabilities, purchasing personal protective equipment (PPE), and taking on other new administrative costs due to staffing shortages (such as taking over nursing functions including as triaging, treating, and performing nurse discharge responsibilities for patients with potential COVID symptoms in ways that limit possible exposure to the disease). All of these additional costs are weighing down on group practices as they try to maintain the minimum staffing levels necessary to serve patients night and day in the emergency department (ED) and prepare for surge staffing when COVID-19 cases actually do increase in their area. These additional needs and expenses likely will carry on into 2022 and perhaps even into 2023.

Many emergency physicians are already very concerned about the viability of their group practices, and a zero percent update to Medicare payments (in addition to the looming Medicare cuts) is exacerbating this concern. At a time when emergency physicians are risking their lives to combat this disease, they should NOT also be worrying about staying in business and keeping the ED doors open.

Therefore, ACEP strongly encourages MedPAC to reverse course and instead recommend ongoing stable updates to the PFS. One possible approach would be for the PFS to be updated by at least the Medicare Economic Index (MEI) annually. MedPAC should also consider recommending other policies, such as extension of the advanced alternative payment model (APM) five percent payment bonus, among others, that would further incentivize high quality care, protect the safety net, and reduce disparities in terms of access to care in rural and underserved communities.

ACEP appreciates the opportunity to share our concerns and would be happy to meet with MedPAC commissioners and staff to discuss this important issue. If you have any questions, please contact Jeffrey Davis, ACEP's Director of Regulatory and External Affairs, at jdavis@acep.org.

Sincerely,



Gillian R. Schmitz, MD, FACEP
ACEP President