

September 12, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Medicare and Medicaid Programs; CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments (CMS-1807-P)

Dear Administrator Brooks-LaSure:

The American College of Medical Genetics and Genomics (ACMG) appreciates the opportunity to provide feedback on proposed rule for CY 2025 Physician Fee Schedule (PFS) payment policies and other changes to Part B payment and coverage policies (CMS-1807-P). The ACMG is a prominent authority in the field of medical genetics and genomics and the only nationally recognized medical professional organization solely dedicated to improving health through the practice of medical genetics and genomics. As the only medical specialty society in the US that represents the full spectrum of medical genetics disciplines in a single organization, the ACMG provides education, resources and a voice for more than 2,500 clinical and laboratory geneticists, genetic counselors and other healthcare professionals. ACMG's mission is to improve health through the clinical and laboratory practice of medical genetics as well as through advocacy, education and clinical research, and to guide the safe and effective integration of genetics and genomics into all of medicine and healthcare, resulting in improved personal and public health.

Payment for Medicare telehealth services

The ACMG appreciates CMS's proposal to include audio-only communication in the regulatory definition of interactive communication system (§ 410.78(a)(3)). As noted in the proposed rule, access to broadband services can vary widely

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7101 Wisconsin Avenue, #Suite 1101
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Telephone: 301-718-9603

Fax: 301-381-9379

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among patients' homes as can patients' preferences to engage with their practitioner using interactive audio and video. Access to audio-only services, when determined to be appropriate by the providing healthcare professional, not only improves access but also improves equity in telehealth services.

However, Congressional action is still needed to extend other critical telemedicine waivers, such as removal of geographic and originating site restrictions. While Congress has previously extended these waivers on a time-limited basis, we implore Congress to take the actions necessary to make these flexibilities permanent. As demonstrated by this proposed rule, in the absence of permanent flexibilities, CMS must propose policies with the expectation that these flexibilities will not be available for the subsequent year. Extending these waivers on an annual basis, especially after CMS has issued their proposed rule for changes to PFS policies for the subsequent year, creates many challenges for stakeholders trying to plan for the subsequent year. It also takes away the opportunity for stakeholders to comment on CMS proposed rules related to those policies.

We also appreciate CMS's proposal to extend the ability for healthcare professionals to continue billing from their enrolled practice location address instead of their home address when providing telemedicine services from a home office. However, we urge CMS to make this policy permanent. Disclosure of a home address on documentation that could be visible by a patient or the public poses unnecessary safety risks to healthcare professionals. If CMS is to collect such information, it must be done so in a way that remains private without risk of public disclosure.

Valuation & policies of 16 new telehealth E/M CPT codes

We appreciate CMS's decision to publish the RUC recommendations for the new CPT code set for telemedicine E/M services. While we recognize CMS's rationale for not using the new telemedicine E/M CPT codes, we are concerned about a situation in which CMS and private payers may use different code sets for documenting telemedicine services. This would result in unnecessary burdens for healthcare professionals providing these services. However, it is also important to maintain payment parity for telehealth services regardless of whether they are delivered via audio-visual or audio-only technology. This allows healthcare professionals to continue to offer telehealth services to patients and reduces inequities that result from patient's access to specific

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Fax: 301-381-9379

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types of technology. As such, we urge CMS to work with AMA to reach conclusion on a single code set for telemedicine E/M services while maintaining parity.

Valuation of a new CPT code for genetic counseling services

The ACMG appreciates CMS's acceptance of 9X100, the new CPT code for Genetic Counseling Services. Unlike the prior 96040 code which was limited to face-to-face time with the patient/family, 9X100 will better account for services provided by a genetic counselor by capturing total time on the day of the encounter. We also support CMS's proposal to assign Procedure Status "B" for code 9X100. While Medicare does not recognize genetic counselors as qualified healthcare professionals, an assignment of Procedure Status "B", and thus subsequent posting of the related RVUs, is very important for the many payers who do recognize and reimburse services provided by genetic counselors.

We also appreciate that CMS has proposed the RUC's recommended direct practice expense inputs for the RVUs as it reflects the pre-, intra-, and post-service time that genetic counselors and genetic counselor assistants spend providing direct and indirect services. The RUC-recommended RVUs also includes some, but not all, equipment and supply costs for providing genetic counselor services. We note that one significant omission is that the current recommendation does not include the cost of pedigree software used by many genetic counselors. Pedigree software is very specialized and used exclusively for patient and family evaluations specific to genetic services, and we recommend that CMS consider including the cost of pedigree software in the valuation of 9X100. Such software reduces clinician time and the potential for errors from manual pedigree drafting. It also streamlines healthcare provision by automating risk assessment and in many cases can be interfaced with the EHR for even more efficiency.

Physician payment rate cuts

Despite inflation and increasing costs to practice medicine, the Medicare conversion factor is set to decrease for the fifth consecutive year. The statutorily mandated annual physician pay cuts are not sustainable, and we urge Congress to take action to make permanent changes. Legislation to address some of these issues is currently being considered in Congress. For

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example, H.R. 2474, the Strengthening Medicare for Patients and Providers Act, would provide a permanent, annual update equal to the increase in the Medicare Economic Index (MEI) and allow physician practices to invest in their practices and implement new strategies to provide high-value care. This bill has broad bipartisan support, with over 150 cosponsors in the House alone.

Clinical Lab Fee Schedule (CLFS) payment reductions and reporting requirements

The ACMG acknowledges the challenges that have been created by the Protecting Access to Medicare Act of 2014 (PAMA) and the numerous subsequent delays that have been implemented by Congress. While the delays were implemented to prevent further damage to the already strained clinical laboratory reimbursement landscape, this has resulted in a scenario in which, without further Congressional action, the CLFS payment rates for CY 2026 through CY 2028 will be based on information from the data collection period of January 1, 2019 through January 30, 2019. While CMS's actions are statutorily tied, we implore Congress to take action to address the burdens associated with PAMA. The Saving Access to Laboratory Services Act (SALSA, S 1000/HR 2377) would improve the accuracy of market-based Medicare payment for clinical diagnostic laboratory tests by modifying the statistical sampling process, setting payment reduction limits, and reducing administrative burdens related to data collection. This bipartisan bill would make the Medicare payment system for laboratory services more predictable and sustainable.

The ACMG appreciates your consideration of our comments for the CY 2025 PFS Proposed Rule. For additional questions, please contact Dr. Michelle McClure, ACMG Director of Public Policy, at mmclure@acmg.net.

Sincerely,



Susan D. Klugman, MD, FACMG
President
American College of Medical Genetics and Genomics

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