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**2021 Medicare Payment Cut Update**

On Oct. 19, a bipartisan coalition of 229 House members sent a letter to Speaker Nancy Pelosi (D-CA) and Minority Leader Kevin McCarthy (R-CA) urging them to blunt Medicare pay cuts scheduled to begin on Jan. 1 unless Congress intervenes. The sign-on led was led by Representatives Ami Bera, MD (D-CA) and Larry Bucshon, MD (R-IN). With more than half of the House of Representatives signing the letter, this represents a strong showing highlighting the outreach efforts of emergency physicians and other health care professionals.

As we reported previously, Reps. Mike Burgess, MD (R-TX) and Bobby Rush (D-IL) introduced bipartisan legislation (on Oct. 2), H.R. 8505, to prevent the pending Medicare payment cuts by waiving budget neutrality requirements due to the finalized evaluation and management (E/M) code proposal in the CY2021 Physician Fee Schedule. This bill is one of several ongoing efforts to help address the steep cuts set to go into effect on January 1, 2021 for many providers – including a 6 percent reduction for emergency physicians.

This morning, Reps. Bera and Bucshon introduced their own bipartisan bill, the “Holding Providers Harmless From Medicare Cuts During COVID-19 Act of 2020,” which would maintain physicians’ reimbursement at 2020 levels – if they were otherwise scheduled to receive a payment cut. The temporary, additional payment would be for two years (2021 and 2022). ACEP is currently reviewing the legislation.

On the Senate side, Sen. Steve Daines (R-MT) sent a letter to Majority Leader Mitch McConnell (R-KY) and Minority Leader Chuck Schumer (D-NY) on Oct. 26 urging them to prevent the Medicare payment cuts as well. He stated his concerns about these cuts placing a further strain on Montana’s health care system and practitioners who are already stressed by COVID. To read Sen. Daines’ letter, [click here](#).

ACEP continues to work closely with legislators and other physician and non-physician groups affected by the rule to push for, at the very least, a solution that holds physicians harmless from such drastic cuts – especially when many emergency physicians still face unprecedented financial hardships and instability due to the COVID-19 pandemic.
Stay tuned for potential grassroots action on this important issue.

**ACEP 2020 Voter Resource Center**

There are only a few days left until the elections! Do you have a voting plan? ACEP created a special tool to help you engage in the 2020 elections and beyond, the **ACEP 2020 Voter Resource Center**, a non-partisan platform where you can easily check if you are registered to vote, find your polling place or mail-in ballot information, and see who is running in your area. You can also share with colleagues, family and friends. ACEP members can also access the **NEMPAC website** for information on how ACEP's political action committee is working on your behalf in the 2020 congressional elections.

**ACEP Releases Poll on Emergency Physicians’ Mental Health**

On Monday, ACEP released a poll conducted in conjunction with Morning Consult that finds that many emergency physicians are hesitant to seek mental health treatment despite the growing toll that serving on the frontlines of COVID-19 is having on them. ACEP officially announced the results of the poll at a press conference during **ACEP20**. ACEP's new president, Mark Rosenberg, DO, MBA, FACEP, led the press conference, which included fellow speakers Jennifer and Corey Feist, the sister and brother-in-law of Dr. Lorna Breen, an emergency physician who tragically died by suicide six months ago after treating COVID-19 patients and contracting the virus herself.

Read this **Regs & Eggs post** to learn more about the striking results of the poll.

**HHS Makes Additional Updates to the Provider Relief Fund**

Last week, HHS announced expanded eligibility for the Phase 3 General Distribution of the Provider Relief Fund (PRF), along with revisions to the reporting requirements. The expanded list of eligible providers is extremely long, thereby decreasing the chance that emergency physicians will be receive additional funds beyond what they have already received from previous distributions.

HHS also changed PRF reporting requirements to now allow providers to apply PRF payments against all lost revenues without limitation. HHS had received pushback for initially limiting funds to an amount that would prevent most providers from being more profitable in 2020 than in 2019. All providers receiving more than $10,000 are subject to key reporting requirements, with the first deadline for reporting February 15, 2021. In addition, all providers who expend more than $750,000 in Federal funds will be subject to additional audit requirements. For additional information, visit the Reporting Requirements and Auditing page and read the Auditing and Reporting Requirements FAQs. More information related to this program can be found on the **Provider Relief Fund website**.

You can apply for Phase 3 General Distribution funding here. The deadline is next Friday, November 6, 2020.

**ONC Delays Implementation of Information Blocking Requirements**

The Office of the National Coordinator (ONC) for Health Information Technology is requiring physicians to comply with regulations around the access, exchange, and use of electronic health information. This includes sharing clinical notes with patients. There are specific exceptions in place that allow physicians to opt-out of sharing data in certain cases. Physicians whose actions are likely to interfere with the access, exchange, or use of electronic health information could be considered information blockers and subject to penalties or disincentives.

Physicians were supposed to start complying with the requirements on November 2, 2020. However, on Thursday, ONC delayed the compliance date to April 5, 2021 due to the ongoing response to the COVID-19 pandemic. Before the delay was announced, the American Medical Association (AMA) created a two-part resource to help understand the requirements: Part 1 provides a summary of the requirements, and Part 2 is a guide to help physicians comply with the requirements.

**CMS Issues Rule and Resources on COVID-19 Vaccine Coverage and Payment**

On Wednesday, CMS announced a series of actions to ensure all Americans have access to the COVID-19 vaccine at no cost when it becomes available. CMS released a rule, effective immediately, that allows for Medicare coverage of any vaccine that the FDA authorizes without beneficiary cost
sharing. The rule also implements CARES Act requirements providing private health plan coverage of a COVID-19 vaccine without cost sharing from in and out-of-network providers during the public health emergency.

Additional highlights from the rule include the following:

- Establishes additional Medicare hospital payments to certain hospitals that use innovative new products approved or authorized to treat COVID-19;
- Modifies reimbursement for outpatient hospital services to ensure payment for certain innovative treatments for COVID-19 that occur outside of bundled arrangements and are paid separately;
- Allows states to employ a broad range of strategies - based on local needs - to manage Medicaid program costs;
- Requires health care providers who perform a COVID-19 diagnostic test to post cash prices online, or face civil monetary penalties; and
- Extends Performance Year 5 for the Center for Medicare & Medicaid Innovation’s Comprehensive Care for Joint Replacement (CJR) demonstration.

CMS also issued toolkits for state Medicaid agencies, providers, and health insurance plans, including a toolkit giving health care providers not currently enrolled in Medicare the information needed to administer and bill vaccines to Medicare patients.

CMS also notes that health care practitioners receiving free COVID-19 vaccines from the federal government will be prohibited from charging consumers for administration of the vaccine. Finally, the agency released new Medicare payment rates for COVID-19 vaccine administration, including setting Medicare payment rates at $28.39 for administration of single-dose vaccines.

**Trump Administration Finalizes Health Plan Price Transparency Rule**

Yesterday, the Trump Administration finalized a rule that requires most health plans (including self-insured plans) to disclose pricing and cost-sharing information including information on negotiated provider rates. There are two specific sets of requirements:

1. Starting January 1, 2022, health plans will be required to make detailed pricing information available to the public, including: (1) negotiated rates for all covered items and services between the plan or issuer and in-network providers; (2) historical payments to, and billed charges from, out-of-network providers; and (3) in-network negotiated rates and historical net prices for all covered prescription drugs.

2. Starting January 1, 2023, health plans will be required to offer an online shopping tool that will allow consumers to see the rate negotiated by their provider and plan, and an estimate of their out-of-pocket cost for 500 of the most shoppable items and services. Surprisingly, this initial list of 500 “shoppable” services includes emergency department (ED) evaluation and management (E/M) services levels 3-5 (CPT codes 99283-99285). ACEP does not consider these services to be “shoppable.”

Going forward, starting on January 1, 2024, health plans will be required to offer online shopping tools showing costs for remaining procedures, drugs, durable medical equipment, and other items and services.

The rule also allows certain plans to take credit in their medical loss ratio calculations for shared savings payments if their plan design permits consumers to shop for services from lower-cost, higher-value providers, and shares the resulting savings with consumers.

ACEP had submitted comments on the proposed rule. Unfortunately the final rule does not address our request to implement more targeted policies for emergency vs non-emergency care, including our recommendation to require health plans to provide consumers with information they need to fully
understand their cost-sharing obligations for emergency services at the time they obtain their coverage.

It is also important to note that this rule is separate from existing requirements targeted at hospitals. Starting January 1, 2021, hospitals will be required to post payer-specific negotiated rates for 300 “shoppable” services in a consumer-friendly way. They must also post available payer-specific negotiated rates for all services (including emergency services) in a machine-readable format.

**CMS Strictly Enforces New COVID-19 Reporting Requirements for Hospitals**
Recently, the U.S. Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) released new guidance and regulatory requirements for all hospitals to report specific COVID-19 information related to testing, capacity and utilization, and patient flows. HHS is requesting the information to help inform its ongoing efforts to respond to the pandemic. CMS, in turn, is responsible for enforcing the reporting requirements.

*Read this [Regs & Eggs](https://www.acep.org/regs-and-eggs/) post to learn more about these reporting requirements and CMS’ strict enforcement strategy.*

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ACEP Public Affairs | 2121 K Street, NW Suite 325 | Washington, DC 20037

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