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CMS Releases CY 2022 Physician Fee Schedule Proposed Rule

On July 13, 2021, the Centers for Medicare & Medicaid Services (CMS) released its proposed Medicare Physician Fee Schedule (MPFS) for calendar year (CY) 2022. In addition to numerous payment updates in the MPFS, such as significant updates to the Merit-based Incentive Payment System (MIPS), new policies may preserve expanded telemedicine services through 2023 and clinicians may incur more difficulty earning bonuses under the Quality Payment Program (QPP) eligibility threshold. CMS also includes in the proposed rule a request for information (RFI) to address COVID-19 vaccine reimbursement proposals.

Payment Rate Updates for MPFS

In the 2021 MPFS final rule, CMS decreased the conversion factor to $34.89 (a nearly 7% reduction) compared to the 2020 conversion factor.[1] For 2022, CMS proposes to decrease the conversion factor by $1.31, to $33.58 (a 3.89% reduction).[2] Conversion factors are applied to relative value units (RVUs), i.e., the resources required to furnish a service, to become payment rates. Payment rate decreases for CY 2022 emanate from the one-time policy changes implemented last year.[3] For 2021, CMS *decreased* the conversion factor by over 10%, but it was offset by the Consolidated Appropriations Act of 2021 (CAA), which *increased* the conversion factor by 3.75% for 2021 only.[4]

The proposed conversion factor decrease for 2022 may have a less severe effect on specialties than the 2021 conversion factor decrease, with most payment changes increasing or decreasing no more than 2%.[5] Even though payment changes were modest for the majority of specialties, certain specialties could experience large payment reductions in 2022.[6] These reductions reflect budget-neutrality adjustment requirements[7] and increases in clinical labor pricing, which lower payments to specialties that utilize expensive equipment, such as interventional radiology. Conversely, primary care had historic boosts in the CY 2021 MPFS, which persist in the CY 2022 proposed fee schedule with 1-2% payment increases.[8] The table below summarizes the most significant proposed payment increases and decreases:

Proposed MPFS Payment Rate Changes for CY 2022[9]

Physician Specialty	Percent Change from CY 2021
Interventional Radiology	-5%
Oral Surgery	-4%
Portable X-Ray Supplier	+10%
Radiation Oncology	-5%
Vascular Surgery	-4%

Telemedicine Changes

CMS also proposes to allow certain telemedicine services to be covered under Medicare until December 31, 2023, as opposed to the calendar year in which COVID-19 ends.[10] While some patients, providers, and lawmakers seek to make these added services permanent, CMS claims it does not have sufficient information regarding the effects of expanding telemedicine services on Medicare and its beneficiaries.[11] CMS's goal in extending coverage for these services through 2023 is to alleviate the concerns of patients and providers that services would be ended abruptly, by creating a "glide path" while CMS gathers information and decides whether to add certain telemedicine services permanently.[12]

Additionally, CMS is proposing updates to several regulatory restrictions and requirements for telemedicine services. While CMS has sought to permanently expand some telemedicine services, expansion on a large scale would require action from Congress.[13] CMS proposes to permanently allow rural and underserved Medicare beneficiaries to access telemedicine services from their homes, which could prevent geographical access barriers, and is proposing to allow audio-only communication technology when used for the diagnosis, evaluation, or treatment of mental health disorders.[14] Previously, Medicare was unwilling to cover audio-only telemedicine services due to overutilization concerns. With the widespread use during the COVID-19 pandemic, clinicians realized that the visualization aspect of mental healthcare visits may not be critical.[15] Audio-only flexibility for mental health services may help to alleviate the shortage of mental health professionals and remove access barriers, such as those with poor bandwidth infrastructure and Medicare individuals who are not capable of (or do not consent to) audio-visual interaction with their clinician.[16]

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Proposed Updates to QPP

Clinicians must participate in one of two quality incentivized programs under the QPP: default MIPS or voluntary Advanced Alternative Payment Models (APMs).[17] MIPS-eligible clinicians are subject to a payment adjustment based on their performance across four weighted categories: Cost, Quality, Improvement Activities, and Promoting Interoperability.[18] For CY 2022, CMS proposes to update the weights of the performance categories as follows: 30% for the Cost performance category (previously 20%); 30% for the Quality performance category (previously 40%); 15% for the Improvement Activities performance category (same as prior year); and 25% for the Promoting Interoperability performance category (same as prior year).[19] The total MIPS score (i.e., the performance threshold) is determined from these weighted categories, and any score above or below the threshold results in positive or negative adjustments, respectively. The threshold is determined from the mean MIPS performance score two years prior to the payment adjustment year.[20] For CY 2022 performance and CY 2024 payment, CMS proposes to increase the threshold from 60 to 75 points, meaning that it will be more difficult for clinicians to receive a positive payment adjustment.[21]

In the CY 2021 final rule, CMS introduced a replacement to the current MIPS framework, intending to move away from siloed reporting measures and focus on activities that are meaningful to a clinician's practice through the new MIPS Value Pathways (MVPs).[22] In the CY 2022 proposed rule, CMS introduces seven MVPs that would be available beginning with the 2023 performance year, which include: rheumatology; stroke care and prevention; heart disease; chronic disease management; emergency medicine; lower extremity joint repair; and, anesthesia.[23] CMS aims to sunset the current MIPS approach by the 2027 performance year, and is seeking stakeholder feedback on whether to similarly mandate participation in MVP.[24]

Besides the default MIPS track, eligible clinicians can choose to participate in Advanced APMs and avoid the MIPS reporting requirements and payment adjustments.[25] Participating clinicians that achieve qualifying APM status, also known as qualifying participants (QPs), can receive a 5% payment bonus during the corresponding payment year through CY 2024.[26] Clinicians that meet a slightly lower threshold qualify for Partial QP status, in which clinicians are exempt from reporting requirements, but do not qualify for payment incentives.[27] CMS proposes changes to increase physician participation and continue developing opportunities in Advanced APMs.[28] Specifically, CMS proposes changes to the conditions of a financial relationship and the formula for calculating the amount of compensation per unit for value-based arrangements.[29] CMS is motivated to make these changes to increase participation in value-based arrangements after finalized changes to the Stark Law[30] waived certain value-based arrangements between physicians and providers (e.g. Advanced APMs).[31]

Other Changes

First, CMS is proposing changes to non-physician practitioner (NPP) billing regulations, allowing providers such as physician assistants to bill Medicare directly for their services and reassign their rights to payment and benefits to any employer, facility, hospital, or physician group beginning January 1, 2022.[32] Further, CMS proposes that in evaluation and management settings, the provider who performs the majority of the work during split visits (e.g., a patient visit wherein both a physician and an NPP performs portions of the visit) will bill Medicare, which gives NPPs more autonomy for billing purposes.[33] Currently, both the physician and the NPP must bill Medicare if the NPP performs a majority of the visit, and the physician will bill Medicare if they perform a substantive portion of the visit or service.[34]

Second, CMS is proposing updates to the Medicare Shared Savings Program (MSSP) to give accountable care organizations (ACOs) more time to transition to electronic reporting. Initially set to begin in 2022, CMS proposes to allow ACOs to continue using the web interface reporting option until 2023 and phase in the new electronic clinical quality measure reporting requirement over the following three years.[35]

Third, CMS plans to grow the Medicare Diabetes Prevention Program (MDPP) expanded model, which aims to help people with prediabetes avoid developing Type 2 Diabetes.[36] During COVID-19, CMS waived enrollment application fees and saw an increase in supplier enrollment.[37] For CY 2022, CMS plans to waive the enrollment application fee for all organizations that enroll in Medicare as an MDPP supplier on or after January 1, 2022.[38] CMS also proposes to improve patient access and program sustainability by replacing the current maintenance sessions phase with a one-year prevention program service period.[39]

COVID-19 Vaccine Request for Information

Before COVID-19, Medicare payment rates for physicians and mass immunizers administering preventative vaccines for illnesses such as the flu, pneumonia, and hepatitis B, had decreased by approximately 30%.[40] With growing stakeholder interest in public health due to the COVID-19 pandemic, CMS is seeking information on costs to determine payment rates for these services. Specifically, they are seeking information on:

(1) "The different types of health care providers who furnish vaccines and how have those providers changed since the start of the pandemic.

(2) How the costs of furnishing flu, pneumococcal, and hepatitis B vaccines compare to the costs of furnishing COVID-19 vaccines, and how costs may vary for different types of health care providers.

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(3) How the COVID-19 [public health emergency] may have impacted costs, and whether health care providers envision these costs to continue."[41]

Comments from Stakeholders

Many stakeholders were quick to criticize and call on congressional intervention to prevent the nearly 4% reduction in the proposed conversion factor. The American College of Surgeons (ACS) claims that these reductions threaten patients' health equity and access, and they propose to stop annual reductions that restrict patient care altogether.[42] ACS expressed that the proposed conversion factor does not keep up with inflation and could negatively impact certain specialties, especially surgical procedures. Additionally, organizations such as the American Medical Association (AMA) and American College of Emergency Physicians opposed the payment cuts, urging Congress to extend the 3.75% increase under the CAA into 2022.[43]

The American Hospital Association (AHA) and AMA support CMS's expansion of telemedicine services beyond the end of the public health emergency. AMA further demonstrated their support by sharing findings from a COVID-19 Healthcare Coalition Telehealth Impact Study, which found that telemedicine has not increased patient visits and has served as a substitute for costly, in-person visits where patients would have visited urgent care clinics or emergency departments.[44] However, the Medicare Payment Advisory Commission (MedPAC)[45] urged Congress to be cautious of expanding telemedicine services permanently, expressing concern that CMS does not have enough information about how those expanded telemedicine services affect Medicare and its beneficiaries, healthcare access, and quality of care.[46]

Conclusion

While proposed payment changes in the CY 2022 MPFS were not well-accepted by stakeholders, many applauded CMS for extending telemedicine services and considering permanent retention of some of these changes as a way to improve health equity and patient access.[47] Changes made to the MPFS during COVID-19 helped to accelerate telemedicine utilization far beyond pre-pandemic levels. Now, Congress is seeking to further expand telemedicine and solidify its future in the healthcare industry. Currently, over 30 telemedicine bills have been introduced in the House and the Senate. CMS is open to comments and information on requested topics until September 13, 2021.[48]

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