

Congress of the United States
House of Representatives
Washington, DC 20515

September 27, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We write to express our concern with the current Center for Medicare & Medicaid Services (CMS) policy regarding the values of evaluation and management (E/M) office visits within global surgery codes. The CY 2023 proposed Medicare Physician Fee Schedule (PFS) once again fails to incorporate the adjusted values for the revised office/outpatient visit E/M codes into the 10- and 90-day global surgery codes, leaving surgeons systematically underpaid for these E/M services relative to other physicians performing the same services. This is the third rulemaking in which CMS seeks to perpetuate this disparity in pay for E/M services. We urge CMS to apply updated E/M values to the global codes in the upcoming CY 2023 Medicare PFS final rule to ensure that these physicians are compensated the same for providing equivalent services as defined by the Medicare statute.

We understand that CMS is concerned global codes may be misvalued. However, refusing to make payment updates for physicians doing equivalent work in the post-operative setting is not the answer — especially when CMS has reviewed and validated or made revisions to many of these codes through the misvalued codes process. Since 2015, the American Medical Association/Specialty Society RVS Update Committee (RUC) has reviewed 217 10- and 90-day global codes, resulting in a number of changes. For example, CMS agreed with a 2019 AMA-RUC recommendation to revalue the cataract surgery code after robust survey data found that ophthalmologists are providing three E&M post-operative visits, rather than four, within the 90-day global period. This represents a reduction in anticipated E/M post-operative visits. Yet, CMS continues to apply a blanket policy that inaccurately undervalues all global services, on top of the misvalued codes adjustment.

The cataract surgery example demonstrates that a well-established and effective process exists to evaluate global code values and their associated post-operative visits. We encourage CMS to avail itself of this mechanism to address potentially misvalued global codes — instead of trying to accomplish that goal by devaluing all post-operative visits.

The CY 2021 PFS marked the first time in over two decades that CMS revalued the office/outpatient E/M codes but did not also update the global code values. Since 1997, each

time the values for office/outpatient visits increased, the agency also adjusted the 10- and 90-day global values to reflect the increases in the E/M portion of these codes.

We urge CMS to adjust the E/M component of the global codes in the final CY 2023 Medicare PFS rule to maintain relativity in the fee schedule and ensure compliance with the Medicare statute, so physicians are paid the same for providing equivalent services.

Thank you for your consideration, and we look forward to working with you on this important and timely issue.

Sincerely,



Larry Bucshon, M.D.
Member of Congress



Ami Bera, M.D.
Member of Congress