



AMERICAN ACADEMY OF
ORTHOPAEDIC SURGEONS

AMERICAN ASSOCIATION OF
ORTHOPAEDIC SURGEONS

November 15, 2022

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Leader Schumer, and Minority Leader McConnell,

On behalf of the orthopaedic surgeons and residents represented by the American Association of Orthopaedic Surgeons (AAOS) and the undersigned groups, who in total account for \$74 billion in economic activity per year and support over 400,000 jobs in the United States¹, we respectfully request that H.R. 8800, the *Supporting Medicare Providers Act of 2022*, and H.R. 3173/S. 3018, the *Improving Seniors' Timely Access to Care Act*, be included in any year-end legislative package that Congress prioritizes. Crucially, H.R. 8800 will prevent a 4.47% cut to the Medicare Physician Free Schedule (MPFS) Conversion Factor (CF) in 2023 and H.R. 3173/ S.3018, which has already passed in the House of Representatives, will reform prior authorization processes within Medicare Advantage (MA) to ensure patients receive timely access to the care they need.

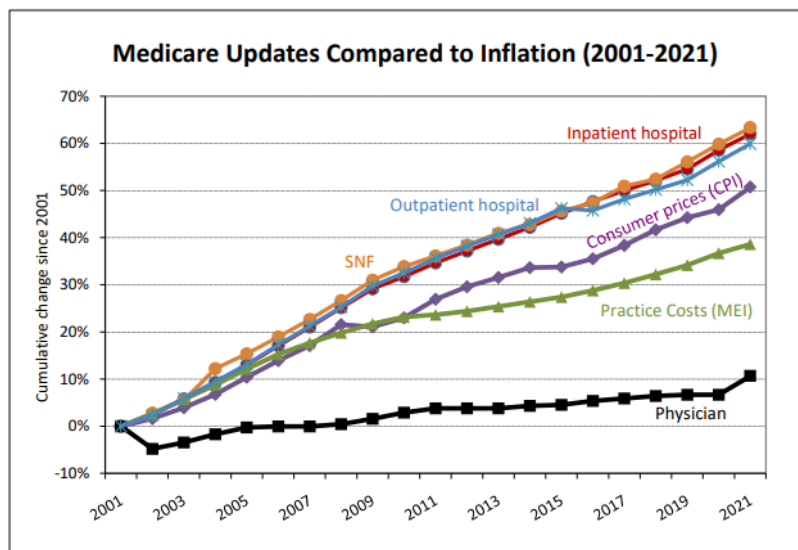
As you are aware, without congressional action, the entire healthcare clinician community faces a cumulative Medicare payment reduction of approximately 8.5% starting January 1, 2023. This cumulative cut is comprised of a 4.42% cut to the MPFS CF stemming from the Centers for Medicare & Medicaid Services (CMS) Final Rule released on November 1, 2022, and a 4% Medicare cut stemming from the Statutory Pay-As-You-Go (PAYGO) Act. Without congressional action these cuts will continue to drive hospital consolidation, limit patient access, and harm physicians' ability to run their businesses. These draconian cuts in a time of considerable stress on physicians may unfortunately affect access to care for our most at risk populations. **We therefore ask that Congress pass H.R. 8800, the *Supporting Medicare Providers Act of 2022*, to mitigate the MPFS CF cut set to take place in the coming months.**

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These impending cuts are compounded by the fact that physicians are the only group in the Medicare payment system whose reimbursement is not adjusted for inflation, causing physician reimbursement by Medicare to increase far below the rate of inflation. Since 2001, the cost of running a medical practice has increased 39%, but CMS has only increased reimbursement for physicians by 11%ⁱⁱ. As a result, when adjusting for inflation in practice costs, Medicare physician reimbursement has actually dropped by 20% over the past two decades. Alternatively, Medicare hospital updates totaled roughly 60% between 2001 and 2021, with average annual increases of 2.4% for both inpatient and outpatient services. For 2023, Medicare finalized a 4% increase in hospital payments.



Sources: Federal Register, Medicare Trustees' Reports and U.S. Bureau of Labor Statistics

Costs associated with practicing medicine since the COVID-19 pandemic are also higher compared to pre-pandemic times. CBO estimates that up to 50% of healthcare facilities could be running with negative margins by 2025ⁱⁱⁱ. These impending cuts and lack of inflationary update are simply not sustainable and continue to generate significant instability for physicians moving forward, threatening beneficiaries' timely access to essential health care services.

The relief provided in 2021 when Congress passed the *Protecting Medicare and American Farmers from Sequester Cuts Act* (S. 610) effectively turned a potential 9.75% cumulative cut to Medicare reimbursement in CY 2022 into a 2.5% cut and was crucial in helping our physicians maintain their practices. Although short-term in nature, this relief provided some necessary financial stability for Medicare clinicians, including orthopaedic surgeons, and helped to guarantee our nation's seniors maintained access to high-quality care.

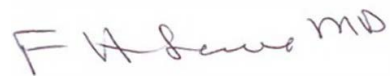
Additionally, **we ask that any final package include H.R. 3173/S. 3018 the *Improving Seniors' Timely Access to Care Act*** which is supported by more than 500 organizations^{iv}, and seeks to directly improve flawed prior authorization processes within MA. Improved patient outcomes are most likely achieved when all participants in the U.S. healthcare system shift to more efficient and innovative practices, including Medicare, MA, and commercial health plans. In April 2022, the Office of Inspector General (OIG) for the U.S. Department of Health and Human services released a report which found that MA plans inappropriately denied up to 85,000 prior authorization requests in 2019, and nearly 20% of reimbursement payments were denied despite meeting Medicare coverage rules^v. The report included dozens of individual examples of improper denials for orthopaedic patients, including

wrongful denials of MRIs, shoulder and knee x-rays, inpatient admission, rehab admission, durable medical equipment, and follow-up visits. One patient detailed in the report requested a reverse total shoulder replacement but was denied for not meeting “internal criteria.” The OIG determined the surgery was warranted, and yet the initial denial was not reversed on appeal.

While the prior authorization process is ostensibly intended to control costs, it can delay necessary medical care and negatively influence patient outcomes, consequentially creating a larger cost burden. A recent American Medical Association survey found that 34% of physicians reported a serious adverse event for a patient—death, hospitalization, disability/permanent bodily damage, or other life-threatening event—due to prior authorization delays^{vi}. The same report found medical practices spend an average of two business days every week completing prior authorization requests, taking away valuable time that could be used to treat patients. The House of Representatives passed H.R. 3173 by voice vote in October and our patients and physicians cannot wait until the next Congress for additional action.

We look forward to working with you to ensure both of these bills are enacted before the end of the year and thank you again for your leadership on these issues.

Sincerely,



Felix H. Savoie, III, MD, FAAOS
AAOS President

American Association of Hip and Knee Surgeons
American Orthopaedic Foot and Ankle Surgeons
American Orthopaedic Society for Sports Medicine
American Osteopathic Academy of Orthopedics
American Shoulder and Elbow Surgeons
American Society for Surgery of the Hand
Arthroscopy of Association of North America
Orthopaedic Trauma Association

cc: Kevin J. Bozic, MD, MBA, FAAOS, AAOS First Vice-President
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Thomas E. Arend, Jr., Esq., CAE, AAOS CEO
Graham Newson, AAOS Vice President, Office of Government Relations

ⁱ <https://www.physicianeconomicimpact.org/>

ⁱⁱ <https://www.ama-assn.org/system/files/medicare-pay-chart-2021.pdf>

ⁱⁱⁱ <https://www.cbo.gov/publication/51919>

^{iv} <https://www.regrelief.org/support/>

^v Some Medicare Advantage Organization Denials of Prior Authorization ... <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf> Some Medicare Advantage Organization Denials of Prior Authorization ... <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>

^{vi} <https://www.ama-assn.org/system/files/prior-authorization-survey.pdf>