



September 1, 2020

Alex M. Azar, II, Secretary
Department of Health and Human Services
Centers for Medicare & Medicaid Services

Re: Comments to Proposed Rules for Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule
File code CMS-1734-P
Published in the *Federal Register* August 20, 2020

Honorable Secretary Azar:

The Illinois Chiropractic Society (ICS) represents approximately 1,200 chiropractic physicians throughout the State of Illinois. The ICS promotes professional standards, ethical conduct, advanced training, and accessible, high quality health care for the residents of our state.

As the voice of the chiropractic profession in Illinois, we submit these comments to the Department of Health and Human Services' (HHS) proposed rule published in the *Federal Register* on August 17, 2020. The rule would, among other things, reduce the relative value units (RVUs) *and* the corresponding conversion factor for spinal manipulation, the only chiropractic physician service covered by Medicare, resulting in drastic cuts to the Physician Fee Schedule (PFS) for this service. The ICS has grave concerns about the disparate and crippling impact the rule would have on chiropractic physicians and their Medicare patients.

The ICS understands that the impetus for the rule was to re-evaluate, and in many cases increase, RVUs for Current Procedural Terminology® (CPT) Evaluation/Management (E/M) codes associated with outpatient office visits, to more accurately reflect the resources involved in furnishing those services. We also understand that Centers for Medicaid Services (CMS) is required to maintain budget neutrality to pay for any proposed increases, and, accordingly, CMS reduced the conversion factor for a number of services. However, even with the reduction in the conversion factor, providers such as medical and osteopathic doctors who are paid for E/M codes will still see increases in reimbursement amounts due to increases in RVUs for those codes.

Double Decrease to Chiropractic Physician Service Frustrates the Rule's Purpose

The ICS' overriding concern is that, while the rule intends to accurately reflect the value of resources expended by Medicare providers, the impact to chiropractic physicians has the exact *opposite* effect for a number of reasons. CMS proposes to reduce both the RVUs *and* the conversion factor for spinal manipulation codes, the only codes Medicare reimburses for chiropractic physicians. This limited coverage already places chiropractic physicians at a disadvantage as compared with far more extensive coverage for services provided by other practitioners. Because chiropractic providers are not paid by Medicare for E/M codes, under the new rule they suffer a double decrease with no opportunity to offset with increases in the E/M code values. The reduced RVUs combined with the reduced conversion factor results in an actual payment decrease for chiropractic physicians of over 19%. a crippling decrease that most providers can hardly absorb under normal circumstances, much less during the current pandemic-related economic downturn.

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Decreasing Spinal Manipulation Values Ignores Impact on Included E/M Elements and Impact on Small, Essential Practitioners

Moreover, under the CPT and CMS guidelines, elements of evaluation and management are considered to be included within the spinal manipulation service. In fact, chiropractic physicians must perform pre- and post-manipulation services that mirror elements of E/M services. The new rule wholly ignores that E/M services are included in the spinal manipulation codes and that they are required for reimbursement of these codes. The decrease in RVUs for 9894x codes, despite the code's inclusion of E/M elements, patently contradicts the stated purpose of the rule to accurately value E/M services. As unique users of spinal manipulation codes 9894x, chiropractic physicians will thus undergo drastic, unjustifiable reimbursement decreases, while other practitioners who are separately reimbursed for E/M codes will experience increases.

The ICS notes that the new fee schedule will result in a 7% reduction in the RVU work component and a 3% reduction in the practice expense component for chiropractic physicians. The reduction in the work component, which includes E/M elements, does not comport with the rule's purpose, as evidenced by the increases made to RVU work components for stand-alone E/M codes.

Additionally, the 3% reduction in the practice expense component does not take into account that chiropractic physicians, who generally practice in solo or small practices, must shoulder a far greater burden in practice expenses. Because most of these physicians work in small, independent offices, they do not enjoy the economies of scale that help to absorb costs in many other types of practices, such as medical doctor groups. As essential, smaller health care offices that have remained open to safely fill the need for chronic pain treatment during the current pandemic, cuts to their practice expense component cannot possibly be justified.

Reductions in Reimbursement will Drive Medicare Patients to Costlier, Invasive, and Medication-Based Care

Finally, the rule will cause many doctors of chiropractic to have no choice but to cease treating Medicare patients. These doctors cannot pay for expenses, much less keep their practices sustainable, with the proposed cuts. Because they may not "opt out" of Medicare, they will have to refuse Medicare patients, a population that needs cost effective, conservative chiropractic care for chronic pain. Ultimately, the cost to our health care system will be great by pushing these patients to care that may be more expensive, invasive, pharmacological, and potentially addictive. Our nation can ill afford these additional stresses during this time.

The ICS therefore urges HHS to reverse the decreases to both the work and expense components of the RVUs for CPT codes 9894x. The ICS further urges HHS to increase the RVUs for spinal manipulation to reflect the E/M elements of that service, to carry out the stated purpose of the rule and to provide parity with the proposed increases for E/M services that are covered when rendered by other providers.

Sincerely,

E. Marc Abla, CAE
Executive Director

C: John Panopoulos, D.C., Pres., Illinois Chiropractic Society