



September 27, 2019

The Honorable Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-1850

RE: CMS-1715-P (CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies)

Submitted via regulations.gov

Dear Administrator Verma:

Consumers First is a new alliance that brings together interests from consumers, children, employers, labor unions, and primary care providers working to change the fundamental economic incentives and design of the health care system. Our work is to realign the incentives and design of health care so that the system truly delivers the health and high quality care that all families across our nation deserve. Together, we are working to ensure that the nation's health care system finally fulfills its obligation to the people it serves by providing affordable, high-quality, cost-effective care to everyone.

Medicare payment policy often establishes a standard that is then adopted by other payers including commercial payers and Medicaid. *Consumers First* offers these comments both to strengthen the Medicare Physician Fee Schedule for Calendar Year 2020, and because the policy changes reflected in this comment letter represent an important step toward realigning the fundamental economic incentives in the health care system to truly meet the needs of all families, children, seniors and adults across the nation. These payment changes could catalyze the transformational change that is needed to our payment systems to drive high value care into the health care system and across health care markets in the U.S.

Consumers First appreciates the opportunity to provide comment on the Medicare Physician Fee Schedule rule for 2020. We ask that these comments, and all supporting citations referenced herein, be incorporated into the administrative record in their entirety. These comments represent the consensus views of the *Consumers First* steering committee, as well as those of the other organizations signing this letter. Some individual members of the steering committee are also submitting their own comments on the rule.

Given our focus on transforming health care payment and delivery systems to ensure the system is delivering the high value care consumers need, our comments are focused on three policies outlined in the proposed rule:

- Relative Value Unit (RVU) Updates
- Evaluation and Management (E/M) office visit payments
- Transitional Care Management Services

Relative Value Unit Updates

The proposed rule makes vital and important updates to Medicare’s relative value units (RVUs) that improve health care value for consumers. Earlier this year, the American Medical Association conducted a comprehensive survey of office visits to help its RVS Update Committee (RUC) make reasonable, survey and empirically-based recommendations consistent with the requirement to capture relative resources. This survey accurately identified undervalued work values. Unfortunately, heretofore, CMS has not been capable of actually reducing clearly overvalued RVUs.¹ *Consumers First* understands that CMS has proposed to accept a significant majority of the recommendations made by the RUC, many of which seek to correct undervalued codes.

Recommendation: *We commend CMS for its work to adjust undervalued codes. In future rules, we recommend that CMS continue to adjust overvalued codes, considering both RUC recommendations and empirical studies outside the RUC process.*

Evaluation and Management Office Visit Services

The proposed rule seeks to accept the recommendation of the AMA’s CPT Editorial Panel to reduce new patient code levels from five to four and maintain the current five levels for established patients, rather than proceed with the plan announced in the CY 2019 physician fee schedule rule to collapse payment into a single amount for four code levels. This decision is backed by strong empirical data and is the right one for patients and consumers. *Consumers First* applauds CMS’ wise decision not to move forward with its original proposal.

Recognizing that medically complex patients and those who face language barriers or low health care literacy may require longer office visits, *Consumers First* supports the proposed establishment of a new code for extended office visit time.²

Further, *Consumers First* supports the proposed change to E/M code descriptions based on either time spent with the patient or medical decision-making. We believe it is important to monitor this change to gauge the reliability of code assignments under the two different approaches to guard against the long standing problem of “upcoding.” We are hopeful that the change in code descriptions will reduce the incidence of “upcoding” compared to the level under the current system.

Finally, *Consumers First* supports the Medicare-specific add-on code describing complexity associated with some patient office visits. We agree that the code should be based on patient characteristics, rather than specialty, as originally proposed.

In the rule, CMS seeks comments on whether it is necessary to make systematic adjustments to other services (non-E/M) to maintain relative balance between these services and office visits and whether to make adjustments in other E/M codes.

Consumers First recommends that CMS move forward with systematic adjustments to maintain relativity. This recommendation is consistent with MedPAC's 2018 report to Congress, which finds that there is systematic relative overpayment of procedures, test and imaging interpretations compared to E/M.³

Summary of Recommendation:

- *Support reducing patient code levels from five to four and maintaining five code levels for established patients.*
- *Support establishment of new code for extended office visit time.*
- *Support updating code descriptions to account for time spent with patient or medical decision making. Recommend close monitoring to guard against upcoding.*
- *Support add-on code describing complexity associated with some office visits based on patient characteristics.*
- *Recommend making systematic adjustments to non-E/M codes to maintain relativity with E/M codes.*

Transitional Care Management (TCM) Services

The proposed rule seeks to increase the use of TCM services and expand payment for care management. *Consumers First* strongly supports these proposals. As described in the proposed rule, a recent study found that "...beneficiaries who received TCM services demonstrated reduced readmission rates, lower mortality, and decreased health care costs. Based upon these findings, we believe that increasing utilization of TCM services could positively affect patient outcomes."⁴ *The inclusion of this proposal in the rule is a clear demonstration that Medicare fee for service payment, both in adjustment of payment levels, and in improved design, can be value enhancing for consumers.* Given that fee for service still pays for a significant majority of Medicare physician services, we recommend that CMS direct the Center for Medicare and Medicaid Innovation (CMMI) to test other approaches to improve value within the Medicare physician fee schedule, not just alternative payment mechanism demonstrations.

Recommendations: *Consumers First supports the proposal to expand payment for care management, which demonstrates the ability of the fee schedule to enhance health care value. We urge CMMI to test other approaches to improve value within the fee schedule.*

Thank you for considering the above recommendations. Please contact Shawn Gremminger, Senior Director of Federal Relations at Families USA (sgremminger@familiesusa.org) for further information.

Sincerely,

Alliance for Retired Americans
American Academy of Family Physicians*
American Benefits Council*
American Federation of State, County, and Municipal Employees*
American Muslim Health Professionals
Families USA*
First Focus on Children*
National Education Association
Pacific Business Group on Health*

**Consumers First* steering committee member

¹ Zuckerman S, Merrell R, Berenson R, et al. Collecting empirical physician time data: piloting an approach for validating work relative value units. The Urban Institute. Report Prepared for the Centers for Medicare & Medicaid Services. https://www.urban.org/sites/default/files/publication/87771/2001123-collectingempirical-physician-time-data-piloting-approach-for-validating-work-relative-valueunits_1.pdf.

² Graham S, Brookey J. Do patients understand?. *Perm J*. 2008;12(3):67-69. doi:10.7812/tpp/07-144, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3037129/>

³Medicare Payment Advisory Committee. June 2018 Report to the Congress: Medicare and the Health Care Delivery System (Chapter 3). http://www.medpac.gov/docs/default-source/reports/jun18_ch3_medpacreport_sec.pdf?sfvrsn=0

⁴ Federal Register, Vol. 84, No. 157, Page 40549