

January 5, 2009

Glenn M. Hackbarth, JD  
Chairman  
Medicare Payment Advisory Commission  
601 New Jersey Avenue, NW  
Suite 9000  
Washington, DC 20001

Dear Chairman Hackbarth:

The undersigned organizations deeply appreciate that the Medicare Payment Advisory Commission (MedPAC) is preparing to recommend that the physician update for 2010 be based on the increase in the costs physicians face instead of being cut by 21 percent, as would be required by the Sustainable Growth Rate (SGR) formula. At the same time, however, we remain concerned that the Medicare Economic Index (MEI) which serves as the foundation for MedPAC's recommendation includes a very substantial productivity adjustment which reduces the MEI by half, or even more. We strongly urge the Commission to consider recommending a 2010 update for physician services that reflects the full increase in medical practice input prices without any productivity adjustment.

The current estimate of the increase in input prices is 2.4 percent. Subtracting 1.3 percent for nonfarm multifactor productivity would reduce the update recommendation to just 1.1 percent. It took the Medicare conversion factor until 2008 to finally get back to where it was before the 2002 cut, and even now average physician payment rates are only slightly higher than in 2001, while the MEI has risen by 22 percent. A 1.1 percent increase in 2010 will not begin to make up for that gap. Besides not making up the gap, a 1.1 percent update is unlikely to even cover practice cost increases for 2010 because the MEI formula routinely understates the true cost of care.

There are two primary reasons that the MEI lags so far behind actual practice cost increases: one is that the MEI is a price index only, so the data used to calculate the physician update is based on what a medical practice looked like when the "market basket" used in the MEI was developed in 1973 and does not reflect all the costs involved in providing medical care in 2008. No adjustments are made for new costs, such as computers, copiers and additional staff, which were not present in physician offices in 1973. For example, data presented to MedPAC in October on Health Care Sector Growth indicates that just between 1999 and 2008, physician office employment increased by 27 percent. In fact, there is little about a medical practice of 2009, whether in the medical technology that is available, the office environment, the medical records processes, or the skilled clinical staff, that bears much resemblance to the medical practice of 1973, but that is the year that the inputs used in the MEI were determined. Prices have changed and weights have changed, but not the underlying inputs.

This problem is then exacerbated by an assumption that is built into the MEI and, to date, included in each year's MedPAC recommended update, that physicians, unlike any other

provider group, can increase productivity year after year to the same degree as the nonfarm economy. This assumption is unrealistic. There are some ways in which physicians can and have increased productivity and efficiency but there are limits on how many minutes can be shaved off of a given service and how many services a physician can do in a day. In addition, there are often costs associated with increased efficiencies that are recognized to some extent in the relative value reviews for particular services, but there is no mechanism for increasing overall physician service funding to account for new resource inputs.

More importantly, any time that physicians may have saved by streamlining practices has been more than consumed by the time required for compliance with all the new regulatory burdens imposed on physicians over the last decade. For example, conversion to new provider identification numbers required by the Health Insurance Portability and Accountability Act (HIPAA) has led to lengthy enrollment and re-enrollment backlogs for physicians that delay payments for months, and sometimes years. During this time, physicians and their staff spend hours and hours trying to find out the status of their applications, revising and resubmitting them, and lining up loans in an increasingly tight credit market to pay their staff and other expenses. Once their enrollment is finally processed, they have to spend time making sure they get paid for all the services they provided during the months or years that the application was awaiting approval. Other tasks that have decreased physician productivity are:

- The constantly expanding list of services or durable medical equipment subject to physician certification and recertification;
- Ever-changing Part D formularies and preauthorization requirements;
- Compliance with HIPAA privacy and other administrative standards;
- Pulling medical record information for the ever-expanding number of audits that physicians are subject to, such as Recovery Audit Contractors;
- Transition to the new Medicare Administrative Contractors; and
- Upcoming imaging accreditation requirements.

In the last six years, MedPAC has routinely waived or cut in half the productivity adjustment when recommending updates for inpatient and outpatient hospital services. Only once, in its recommendation for the 2004 outpatient hospital update, did MedPAC include a full productivity adjustment. The undersigned organizations urge the commission to recommend that no productivity adjustment be applied to next year's physician update. Thank you for your consideration.

Sincerely,

American Academy of Child and Adolescent Psychiatry  
 American Academy of Dermatology Association  
 American Academy of Facial Plastic and Reconstructive Surgery  
 American Academy of Family Physicians  
 American Academy of Home Care Physicians  
 American Academy of Hospice and Palliative Medicine  
 American Academy of Neurology Professional Association

American Academy of Ophthalmology  
American Academy of Otolaryngology-Head and Neck Surgery  
American Academy of Pain Medicine  
American Academy of Pediatrics  
American Academy of Physical Medicine and Rehabilitation  
American Association of Clinical Endocrinologists  
American Association of Clinical Urologists  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Cardiology  
American College of Chest Physicians  
American College of Emergency Physicians  
American College of Obstetricians and Gynecologists  
American College of Osteopathic Family Physicians  
American College of Osteopathic Internists  
American College of Osteopathic Surgeons  
American College of Physicians  
American College of Radiation Oncology  
American College of Radiology  
American College of Rheumatology  
American College of Surgeons  
American Gastroenterological Association  
American Geriatrics Society  
American Medical Association  
American Medical Directors Association  
American Osteopathic Academy of Orthopedics  
American Osteopathic Association  
American Psychiatric Association  
American Rhinologic Society  
American Society for Gastrointestinal Endoscopy  
American Society for Therapeutic Radiology and Oncology  
American Society of Addiction Medicine  
American Society of Anesthesiologists  
American Society of Cataract and Refractive Surgery  
American Society of Clinical Oncology  
American Society of Hematology  
American Society of Nephrology  
American Society of Pediatric Nephrology  
American Society of Plastic Surgeons  
American Society of Transplant Surgeons  
American Thoracic Society  
American Urogynecologic Society  
American Urological Association  
Association of American Medical Colleges  
Child Neurology Society  
College of American Pathologists

Congress of Neurological Surgeons  
Heart Rhythm Society  
Infectious Diseases Society of America  
Joint Council of Allergy, Asthma and Immunology  
Medical Group Management Association  
Renal Physicians Association  
Society for Cardiovascular Angiography and Interventions  
Society for Maternal-Fetal Medicine  
Society for Vascular Surgery  
Society of Critical Care Medicine  
Society of Gynecologic Oncologists  
Society of Hospital Medicine  
Society of Interventional Radiology  
Society of Thoracic Surgeons  
The Endocrine Society