



Physicians Caring for Texans

Sept. 14, 2018

The Honorable Kevin Brady
Chair, Committee on Ways & Means
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Michael Burgess, MD
Chair, Subcommittee on Health
2336 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Brady and Burgess:

We urgently need and request your help to reestablish legislative intent on recent Medicare reforms passed by Congress.

Specifically, the Centers for Medicare & Medicaid Services (CMS) is off the rails with its new MACRA and Medicare payment rule. Simply stated, this is way too complicated, intertwined, and inscrutable — and as such will not improve health care quality. Instead, it will harm patient care and the practice of medicine in Texas (and in our nation).

Therefore, on behalf of the more than 51,000 physician and medical student members of the Texas Medical Association and the millions of Texans we serve, I am writing to request your personal intervention to stop CMS from enacting lasting and serious damage to the Medicare program.

Given the sweeping and overwhelmingly negative impact of the proposed rule — and given the crushing, existing administrative burden that it fails to relieve — we fear that Texas physicians will abandon the Medicare program en masse or severely limit their Medicare patient loads.

To prevent this train wreck in our Medicare system, please hold hearings as quickly as possible on the proposed Medicare rule that CMS published in the *Federal Register* on July 27, 2018.

Please also invite practicing physicians to testify on what these proposals will mean to their practices and their patients. As CMS will publish the final rule on or about Nov. 1 we have no time to waste.

The changes CMS is proposing in the 2019 Physician Fee Schedule update and revisions to the Quality Payment Program (QPP) will significantly increase Medicare's administrative burden on physician practices; reduce Medicare payments to many physician practices; do little to improve quality of care or reduce the cost of care; and further hamper Medicare beneficiaries' access to care.

As the chairmen of major committees and subcommittees of jurisdiction, you maintain extensive oversight on this agency and its programs. We have read your recent reports and letters on CMS' proposed rule. We sincerely appreciate all the time and effort both of you have invested for years in

making sure that Medicare is a workable program for Texas physicians and an effective and efficient program for its beneficiaries.

TMA physicians and staff experts have spent the past six weeks analyzing the proposed rule, identifying its weaknesses, and formulating constructive suggestions for change. We submitted the attached comment letter, with 75 substantive recommendations, to CMS earlier this week.

Many of CMS' proposals create complexity and questions instead of simplification and clarity. Even when the agency proposes positive changes and service expansion, it creates additional burdens and confusion for the physicians who must implement them.

For example, we welcome the proposal to simplify the outdated, excessive, and overwhelming documentation requirements associated with evaluation and management (E&M) services. But CMS erroneously assumed that reducing one of Medicare's many, overly burdensome administrative requirements necessitates a significant reduction in physician payment. We reject CMS' plan to nearly eliminate the current stratified payment system, in which payment for an office visit depends on the complexity of the patient's presenting medical problems. The CMS proposal would remove incentives for physicians to care for patients with complex or complicated diseases, including those with disabilities and those with serious or terminal illnesses

We spend more time with very sick patients because that is what they need. They need us to examine more parts of their body. They need us to ask more detailed questions. It's not just so we can check off more boxes; it's because that's what the patient needs. The Medicare payment system must recognize that.

I want to turn briefly to the other major segment of the proposed rule: the QPP. Since its inception, physicians have complained that the QPP — with its multiple, rapidly changing data elements, measures, objectives, activities, thresholds, deadlines, reporting periods, and submission mechanisms — is a bureaucratic nightmare.

The proposed rule would compound rather than alleviate this impenetrable morass. To illustrate, I share this paragraph from the proposed rule on page 36,080 of the *Federal Register*:

The following measures are excluded from a MIPS eligible clinician's total measure achievement points and total available measure achievement points:

- (i) Each submitted CMS Web Interface-based measure that meets the data completeness requirement, but does not have a benchmark or meet the case minimum requirement, or is redesignated as pay-for-reporting for all Shared Savings Program accountable care organizations by the Shared Savings Program;

This is not medicine. This is not patient care. This is a widget-counting bureaucracy gone mad.

I know that these problems and all of the other concerns we documented in the attached comment letter were not what you had in mind when you wrote and passed legislation to strengthen and improve Medicare.

In closing, I reiterate our request for congressional hearings on this proposed rule as quickly as possible. TMA leaders and staff will gladly provide witnesses and background material. Please help us stop this madness.

I will follow up with you both in the very near future. In the meantime, should you have any questions or need any additional information, please contact Darren Whitehurst, TMA Vice President of Advocacy, or Karen Batory, TMA Vice President of Population Health and Medical Education, at (512) 370-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Curran MD". The signature is fluid and cursive, with a large initial "D" and a stylized "Curran" followed by "MD".

Douglas W. Curran, MD
President

CC: The Honorable John Cornyn
The Honorable Ted Cruz
The Honorable Members of the Texas Congressional Delegation
The Honorable Alex M. Azar II
The Honorable Seema Verma

Enclosure