



September 6, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1770-P
Mail Stop: C4-26-05
7500 Security Boulevard,
Baltimore, MD 21244-1850

Electronically submitted at <https://www.regulations.gov/document/CMS-2022-0113-1871>

RE: Medicare and Medicaid Programs: Calendar Year 2023 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies, Medicare Shared Savings Program Requirements, etc.

Dear Administrator Brooks-LaSure:

The American Society of Nuclear Cardiology (ASNC) welcomes the opportunity to provide comment on policies included in the CY2023 Medicare Physician Fee Schedule (PFS) proposed rule as published in the *Federal Register* on July 29, 2022.

ASNC is a 4,500 member professional medical society, which provides a variety of continuing medical education programs related to nuclear cardiology and cardiovascular computed tomography, develops standards and guidelines for training and practice, promotes accreditation and certification with the nuclear cardiology field, and is a major advocate for furthering research and excellence in nuclear cardiology and cardiovascular computed tomography.

Specifically, ASNC offers comment on the following:

- CY2023 Conversion Factor
- Rebasement and Revising the Medicare Economic Index (MEI)
- Medicare Appropriate Use Criteria (AUC) Program for Advanced Diagnostic Imaging

CY2023 CONVERSION FACTOR

CMS proposes a CY2023 Medicare conversion factor of \$33.0775, a decrease of \$1.53 or 4.42 percent from the 2022 conversion factor rate of \$34.6062, which reflects a budget neutrality requirement and the expiration of a 3 percent increase to the conversion factor passed by Congress. A cut to the conversion factor is layered on top of a zero update, the current 2 percent

sequestration, the threat of an added 4 percent sequestration, and a potential downward payment adjustment of up to 9 percent for clinicians who are required to but do not successfully participate in the Merit-based Incentive Payment Program (MIPS).

These cuts threaten the financial viability of physician practices, as well as physician morale. At the Jan. 14, 2022 meeting of the Medicare Payment Advisory Commission (MedPAC),¹ Commissioner Lynn Barr stated during the discussion on physician payment adequacy, "...we are experiencing [an] extraordinary amount of trauma in our physician workforce. It has gone beyond burnout. ...we are starting to see evidence of PTSD. So I worry a little bit about a slap in the face to the people that are really on the front lines, but it is what it is."

ASNC appreciates the recognition that physician burnout is a real and growing problem, but the notion of "it is what it is" *promotes* a broken system of physician payment when, in fact, policymakers, in consultation with the physician community, should be focused on reforming the physician payment system and ensuring the long-term sustainability of physician practices and patient access to physicians participating in Medicare.

ASNC appreciates that Ms. Barr and other Commissioners acknowledge the lack of an inflationary update to physician payment is a problem. As then-Commissioner Brian DeBusk stated during the meeting, when hospitals enjoy a market basket update and there is a zero update for physicians, more physicians become employees of hospitals or other corporate entities. And, when that happens, Medicare loses its financial leverage to influence physician practice patterns.

Taking inflation in practice costs into account, Medicare physician payment plunged 20 percent from 2001 to 2021. Physicians are consistently asked to adapt to the costs of running a medical practice even as reimbursement is unpredictable and can be subject to significant reductions from year to year.

ASNC calls on CMS to work with Congress to prevent cuts to the Medicare conversion factor in 2023 and, further, to provide physicians with an inflationary update next year.

REBASING AND REVISING THE MEDICARE ECONOMIC INDEX

ASNC appreciates that CMS is concerned the 2006 Physician Practice Information Survey (PPIS) is outdated. We support consideration of more frequent updates, and that any significant data updates (PPIS results, supply and equipment pricing, and clinical staff wage rates) occur simultaneously and be transitioned to avoid abrupt impacts to individual services and specialties.

We have concerns, however, that CMS has proposed moving away from using American Medical Association (AMA) data to inform the MEI and to instead utilize data collected by the United States Census Bureau's Service Annual Survey (SAS). **Because this proposal would result in significant redistribution within physician payments, we support CMS' decision to not implement its proposed updated MEI cost weights for 2023 and the solicitation for comment on its proposal.**

¹ Medicare Payment Advisory Commission Public Meeting January 13-14, 2022 https://www.medpac.gov/wp-content/uploads/2021/10/Jan22_MedPAC_Meeting_Transcript_SEC.pdf

Use of 2017 data from the SAS as proposed would result in significant fee schedule redistribution. ASNC supports the use of updated data and acknowledges the AMA is involved in a new data collection effort. It is critical the data collection effort includes a representative sample of specialties and practice characteristics. The CY2010 physician payment fee schedule included drastic cuts to cardiology services, including cuts of roughly 36 percent for nuclear cardiology, as a result of the use of PPIS data that reflected a small, unrepresentative sample of cardiologists who did not face financial pressures of typical practicing cardiologists. In the intervening years, significant practice consolidation has occurred, driven by declining reimbursement and significant regulatory burden. We are pleased the AMA recognized early in its current data collection effort that a shift in the focus of the data collection format is necessary due to practice consolidation and that financial experts should be specifically targeted as part of its efforts.

We appreciate the AMA has engaged with multiple vendors and has committed significant resources in its effort. AMA anticipates that 2022 data could be collected beginning in mid-2023. **ASNC therefore asks CMS to pause consideration of other sources of cost data for use in the MEI until the AMA effort is complete.**

MEDICARE APPROPRIATE USE CRITERIA PROGRAM FOR ADVANCED DIAGNOSTIC IMAGING

Although outside the scope of this proposed rule, ASNC appreciates CMS' action in July to indefinitely delay the penalty phase of the AUC Program for advanced diagnostic imaging. ASNC strongly supported and advocated for language included in the FY2022 report that accompanied the House-passed Labor-Health and Human Services-Education spending bill that requests a report from CMS to Congress on implementation of this program, including "challenges and successes." ASNC looks forward to CMS' report and consideration of existing quality improvement programs and innovative payment models to facilitate appropriate use of advanced diagnostic imaging, as well as other services provided to Medicare beneficiaries. As presented in a multi-society letter signed by ASNC and sent to CMS in May 2022, we ask CMS to also consider programs and activities being implemented in medical practice that have demonstrated effectiveness at driving meaningful progress toward appropriate use of diagnostic imaging and how those activities can be leveraged in the Medicare program.

As ASNC has previously commented, with the vast majority of eligible clinicians participating in MIPS, the opportunity exists to utilize MIPS as a platform for encouraging the consultation of AUC. In the eight years since enactment of the Protecting Access to Medicare Act, opportunities have been lost to advance clinically appropriate ordering of AUC through physician education and by leveraging other Medicare quality improvement programs and innovative payment models.

CMS could build upon MIPS appropriate use measures and improve upon the current Improvement Activity "Consulting AUC Using Clinical Decision Support when Ordering Advanced Imaging" by allowing physicians and other health care professionals to consult AUC using a mechanism that is best-suited for their practice and specialty. We suggest there is also

opportunity for targeted efforts to encourage the consultation of AUC through the development of MIPS Value Pathways.

The AUC Program, as constructed, is sweeping and undiscerning. We suggest that any mechanism for encouraging appropriate use of advanced diagnostic imaging should target low-value services.

Further, a report just released by the Kaiser Family Foundation highlights the steady growth of Medicare beneficiaries enrolled in a Medicare Advantage (MA) plan.² According to the report, for 2022, more than 28 million people are enrolled in a MA plan, accounting for nearly half, or 48 percent, of the eligible Medicare population and representing more than a doubling of enrollment from 2007 to 2022. The Congressional Budget Office projects that the share of all Medicare beneficiaries enrolled in MA plans will rise to 61 percent by 2032.³ These trends further challenge the necessity of a stand-alone AUC program for Medicare fee-for-service.

CONCLUSION

Thank you for the opportunity to comment on the CY2023 PFS proposed rule and issues of importance to nuclear cardiologists. ASNC appreciates the opportunity for dialogue concerning these important issues. Any questions or requests for additional information should be directed to Georgia Lawrence, ASNC's Director of Regulatory Affairs at glawrence@asnc.org.

Sincerely,



Dennis Calnon, MD
President
American Society of Nuclear Cardiology

² Freed M, Fuglesten Biniek J, Damico A, Neuman T. Medicare Advantage in 2022: Enrollment Update and Key Trends; Kaiser Family Foundation, Aug. 25, 2022. <https://www.kff.org/medicare/issue-brief/medicare-advantage-in-2022-enrollment-update-and-key-trends/>

³ Ibid.