

# SUBJECT TO RESOLUTION COMMITTEE REVIEW

## AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 236  
(N-21)

Introduced by: American Academy of Family Physicians, American Academy of Orthopaedic Surgeons, American Academy of Otolaryngology-Head and Neck Surgery, American Academy of Physical Medicine and Rehabilitation, American Association of Neurological Surgeons, American College of Cardiology, American College of Emergency Physicians, American College of Gastroenterology, American College of Surgeons, American Orthopaedic Foot & Ankle Society, American Gastroenterological Association, American Society for Gastrointestinal Endoscopy, American Society for Surgery of the Hand, American Society of Echocardiography, American Society of Nuclear Cardiology, American Urological Association, Congress of Neurological Surgeons, International Society for the Advancement of Spine Surgery, North American Spine Society, Society for Cardiovascular Angiography and Interventions, Society of Cardiovascular Computed Tomography, California, American College of Physicians

Subject: Repeal or Modification of the Medicare Appropriate Use Criteria (AUC) Program

Referred to: Reference Committee B

Whereas, In 2014, Congress passed the Protecting Access to Medicare Act (PAMA) [Public Law 113-93], establishing the Medicare Appropriate Use Criteria (AUC) Program for advanced diagnostic imaging; and

Whereas, Seven years after PAMA's enactment, the Centers for Medicare & Medicaid Services (CMS) continues to face challenges in completing the rulemaking and implementation of the AUC program, fueling existing concerns about the complexity of the law, associated costs, and regulatory burden sustained by physicians and other health care providers to meet the program requirements; and

Whereas, The AUC program, if ever fully implemented, would impact a substantial number of clinicians, as it would apply to every clinician who orders or furnishes an advanced diagnostic imaging test, unless a statutory or hardship exemption applies; and

Whereas, Practitioners whose ordering patterns are considered outliers will be subject to prior authorization--at a time when physicians are working to advance policies that reduce the administrative burdens associated with prior authorization; and

Whereas, The program will be a financial burden for many practices, as it is estimated to cost \$75,000 or more for a practice to implement a Clinical Decision Support Mechanism (CDSM) that complies with the AUC Program rules<sup>1</sup>; and

<sup>1</sup> Association for Medical Imaging Management; 2017 <https://ahralink.files.wordpress.com/2017/03/cds-survey-2017.pdf>

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Whereas, The law is prescriptive, requiring clinicians to use only CDSMs qualified by CMS and only AUC developed by certain qualified entities--preventing the use of other clinical decision support tools and evidenced-based guidelines for advanced diagnostic imaging developed by medical societies and other health care institutions; and

Whereas, The AUC program creates a complex exchange of information between clinicians that is not yet supported by interoperable electronic health record systems and relies on claims-based reporting at a time when CMS is migrating from claims reporting for quality data; and

Whereas, Since PAMA's enactment, the AUC program has become obsolete given the subsequent enactment of the Medicare Access and CHIP Reauthorization Act (MACRA) of 2015 and the rise of new health care payment and delivery models via the Quality Payment Program (QPP) (alternative payment models and Merit-based Incentive Payment System) designed to hold clinicians responsible for health care resource use; and

Whereas, Four years after the program's intended start date, technical challenges, including the need for claims processing edits to ensure that only appropriate claims are subject to AUC claims processing edits, have further eroded physician confidence in and support for the program; and

Whereas, Awareness of the program among physicians and other health care professionals remains low, which is supported by CMS' estimate--based on CY2020 Medicare claims during the program's education and operations testing phase--that between 9-10 percent of all claims subject to the AUC program reported information sufficient to be considered compliant with the program; and

Whereas, In the CY 2022 Medicare Physician Fee Schedule proposed rule, CMS is yet again proposing to delay the payment penalty phase of the AUC program until the later of January 1, 2023, or the January 1 of the year following the end of the COVID-19 public health emergency; and

Whereas, Congress and CMS must seriously consider the degree to which the AUC program and QPP requirements overlap and create duplicative reporting burdens for physicians already overwhelmed by the variety of other administrative burdens associated with care delivery; and

Whereas, There is widespread agreement in the medical community that the program cannot be implemented as originally envisioned without imposing undue burden and cost on physician practices; therefore be it

RESOLVED, That our American Medical Association Policy H-320.940, "Medicare's Appropriate Use Criteria Program," be amended by addition and deletion to read as follows:

Our AMA will ~~continue to advocate to Congress for delay the effective date either the full repeal~~ of the Medicare Appropriate Use Criteria (AUC) Program ~~or legislative modifications to the program in~~ such a manner that ~~until the Centers for Medicare & Medicaid Services (CMS) can adequately addresses~~ technical and workflow challenges, ~~with its implementation and any interaction between~~ maximizes alignment with the Quality Payment Program (QPP), and the use of advanced diagnostic imaging appropriate use criteria. creates provider flexibility for the consultation of AUC or advanced diagnostic imaging guidelines using a mechanism best suited for their practice, specialty and workflow. (Modify Current HOD Policy)

Fiscal Note: Modest - between \$1,000 - \$5,000

Received: 10/28/21

**AUTHORS STATEMENT OF PRIORITY**

This resolution should be considered at the November 2021 Special Meeting of the AMA HOD to allow the AMA to amend current policy on the AUC Program before the current delays of implementation expire (currently scheduled for January 2022). Many hospital systems and physicians have started trial programs to implement the system based on the 2022 deadline which is expensive and wasteful. In the CY 2022 Medicare Physician Fee Schedule proposed rule, CMS proposed to further delay implementation of the AUC program. Subsequently, the Committee on Appropriations of the U.S. House of Representatives issued a report directing CMS to submit a report to Congress describing the success and challenges associated with the long-delayed implementation of the AUC program. Since legislative action is required to amend the statutory requirements in PAMA, this is the opportune time for the AMA to express physician's concerns with the AUC Program requirements, in order to influence legislation which may be introduced in the next 6 months.

**RELEVANT AMA POLICY**

**Medicare's Appropriate Use Criteria Program H-320.940**

Our AMA will continue to advocate to delay the effective date of the Medicare Appropriate Use Criteria (AUC) Program until the Centers for Medicare & Medicaid Services (CMS) can adequately address technical and workflow challenges with its implementation and any interaction between the Quality Payment Program (QPP) and the use of advanced diagnostic imaging appropriate use criteria.

Citation: Res. 229, A-17; Reaffirmed - BOT Action in response to referred for decision: Res. 245, A-19 and Res. 247, A-19