

## 2021 Physician Fee Schedule & Quality Payment Program Proposed Rules Released

On August 3, 2020, the *Centers for Medicare & Medicaid Services* (CMS) released two proposed payment rules for *calendar year* (CY) 2021: the *Medicare Physician Fee Schedule* (MPFS) and the *Quality Payment Program* (QPP). CMS included in the MPFS proposed rule adjustments to physician payment rates and an expansion of telemedicine services. The proposed QPP rule, meanwhile, takes into account adjustments made for the COVID-19 *public health emergency* (PHE) and seeks to reduce unnecessary regulatory burden on providers by eliminating some requirements. These rules, which have garnered mixed reactions from stakeholders, are both open for comment until October 5, 2020.<sup>1</sup>

### MPFS Proposed Rule

#### Payment Rate Updates

The MPFS payment rate is being reduced for 2021, due to the proposed conversion factor. CMS proposes a 2021 conversion factor of \$32.26, a 10.6% decrease from CY 2020's conversion factor of \$36.09.<sup>2</sup> This reduction is due in part to several "*standard technical proposals involving practice expense, including the implementation of the third year of the market-based supply and equipment pricing update, and standard rate-setting refinements to update premium data involving malpractice expense and geographic practice cost indices.*"<sup>3</sup>

The conversion factor was also reduced due to the statutorily-mandated budget neutrality adjustment. This adjustment, which accounts for changes in work relative value units (wRVUs) that are converted into payment rates, must remain budget neutral, which means that if some procedure codes are increased in value so that RVU expenditures differ by more than \$20 million from 2020, other codes must consequently be reduced.<sup>4</sup> The wRVU changes emanate from the CY 2020 MPFS final rule that made several changes to the outpatient office-based *evaluation and management* (E/M) wRVUs. The effect of these upward adjustments to E/M RVU changes is that payment rates for other services were reduced, as exemplified in the table below:

### Proposed MPFS Payment Rate Changes For CY 2021<sup>5</sup>

Physician Specialty	Percent Change from CY 2020
Anesthesiology	-8%
Cardiac Surgery	-9%
Family Practice	14%
Hematology/Oncology	14%
Interventional Radiology	-9%
Neurosurgery	-7%
Ophthalmology	-6%
Radiology	-11%
Thoracic Surgery	-8%
Vascular Surgery	-7%

#### Telemedicine Changes

In CMS's 2021 MPFS proposed rule, coverage for several telemedicine services was permanently implemented or temporarily expanded. Services such as E/M and some visits for patients with cognitive impairment are proposed to be permanently covered for telemedicine under Medicare.<sup>6</sup> CMS also seeks to extend payments for some telemedicine services, such as emergency department visits, only temporarily until the end of the CY when the COVID-19 PHE officially ends.<sup>7</sup> Nine telemedicine service codes will remain covered permanently under this proposed rule, 13 will remain covered temporarily, and 74 will be removed immediately after the PHE is ended.<sup>8</sup>

#### Other MPFS Proposed Changes

Other changes in the proposed rule include:

- (1) Updates that better reflect services provided to patients with complex or chronic diseases, an area of growing need for Medicare beneficiaries and one whose importance has been emphasized by the COVID-19 pandemic;
- (2) Permanent flexibility measures that would allow physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-midwives to perform and supervise certain diagnostic tests; and,
- (3) Easing selected billing and coding requirements for E/M visits, improvements which would save clinicians an estimated 2.3 million hours per year.<sup>9</sup>

### Stakeholder Responses

In response to the MPFS proposed rule, a number of professional associations and industry trade groups criticized a number of CMS's proposals, but focused in particular on the budget neutrality adjustment. The *American Medical Association* (AMA) released a critical statement wherein it pointed out that the MPFS payment increases (particularly those related to E/M services) result in "unsustainable" offsets by effecting large payment reductions to other services.<sup>10</sup> The AMA urged Congress to waive the budget neutrality requirement, asserting that physicians have experienced extraordinary economic hardship during COVID-19 and cannot afford to subsequently undertake reduced payments.<sup>11</sup>

Similarly, the *American Association of Neurological Surgeons* (AANS) and *Congress of Neurological Surgeons* (CNS) issued a joint statement condemning the budget neutrality adjustment, which would result in neurosurgeons facing overall payment cuts of at least 7%.<sup>12</sup> The *American College of Surgeons* (ACS), *Surgical Care Coalition*, and *American College of Physicians* (ACP) also asserted suspending budget neutrality adjustments and asked Congress to waive these mandates.<sup>13</sup> Despite these and other concerns, many groups, including the AMA, the *American College of Obstetricians and Gynecologists* (ACOG), and the ACP also praised other aspects of the proposed rule, such as increased payments for office visits and reduced documentation requirements.<sup>14</sup>

### **QPP Proposed Rule**

At the same time that it released the MPFS proposed rule, CMS also released the 2021 QPP proposed rule. Some of the notable changes, which are discussed further below, include updates to QPP performance categories, updates for *accountable care organizations* (ACOs), and delays to a quality reporting system set to be launched in 2021.

### Proposed Updates to the Merit Based Incentive Payment System (MIPS)

MIPS is one of the two QPP programs in which providers may participate. For the 2021 performance year (PY), CMS proposes altering some of the performance categories, and the weights for those categories, as follows:

- (1) Quality performance category – To be weighted at 40% (was previously 45%);
- (2) Cost performance category – To be weighted at 20% (was previously 15%);
- (3) Promoting Interoperability (PI) performance category – To be weighted at 25% (same as previous); and,
- (4) Improvement Activities performance category – To be weighted at 15% (same as previous).<sup>15</sup>

These above changes are in accordance with statutory requirements that the Cost and Quality performance categories each be weighted at 30% by PY 2022.<sup>16</sup>

Additionally, MIPS Value Pathways (MVPs),<sup>17</sup> a new MIPS framework which was originally set to be implemented in 2021, is now set for release in 2022 at the earliest.<sup>18</sup>

### Proposed Updates to the Medicare Shared Savings Program (MSSP)

For ACOs, CMS proposes streamlining reporting, and reducing unnecessary reporting, in a number of ways. First, CMS proposes retiring the current CMS Web Interface that ACOs use to report quality measures, and instead require ACOs to report through the *Alternative Payment Model (APM) Performance Pathway (APP)*, a framework similar to MVPs.<sup>19</sup> This will allow MSSP ACOs to only report one set of data to satisfy requirements under both the MSSP and MIPS.<sup>20</sup> Second, CMS proposes eliminating the current APM scoring standard and replacing it with the APP, which would introduce fixed measures for each performance category.<sup>21</sup> Third, CMS proposed significantly reducing the number of measures that MSSP ACOs must report. The number of reportable quality measures would be reduced from 23 to six, and the number of those measures that MSSP ACOs must actively report would be reduced from ten to three.<sup>22</sup>

Another proposed change was the threshold for the Quality performance standard – this percentile has been raised from the 30<sup>th</sup> percentile to the 40<sup>th</sup>, meaning that MSSP ACOs must score at or above the 40<sup>th</sup> percentile in all Quality performance category scores to qualify for shared savings.<sup>23</sup>

### Stakeholder Responses

Stakeholders have voiced both praise and concern about the QPP rule as well. The ACP, for example, praised the broad relief from MIPS penalties in the 2021 proposed rule and COVID-19 allowances for providers.<sup>24</sup> Because of the proposed rule's strong focus on ACOs, the *National Association of ACOs* (NAACOS) released a comprehensive statement on both the MPFS and QPP proposed rules, stressing that the significant reporting system changes suggested in both of the proposed rules would lead to a "considerable undertaking" for ACOs (as those organizations would consequently have to change reporting mechanisms), especially during the PHE.<sup>25</sup> NAACOS appreciated the expansion of telemedicine coverage but urged stronger action on helping providers meet the considerably higher *qualifying participant* (QP) thresholds necessary to earn value-based care bonuses in 2021.<sup>26</sup> NAACOS asked Congress to assist in helping to further the transition to value-based care, especially in these difficult times.<sup>27</sup>

### **Conclusion**

While not all changes proposed in the 2021 MPFS and QPP rules were taken well by stakeholders, many commended the rules' responses to the COVID-19 crisis in expanding telemedicine coverage and increasing payments for some healthcare services. Concerns related to decreased payments mostly stemmed from the Medicare budget neutrality mandate. Many professional

associations and industry trade groups called for Congress to waive this mandate, citing the extraordinary financial burden from the COVID-19 pandemic that

would only be exacerbated by some of these proposed changes, should the mandate remain in place. Comments are open for both until October 5, 2020.<sup>28</sup>

- 1 “Surgeons Pan Cuts in CMS’ Proposed Fee Schedule For 2021” By John Commins, HealthLeaders, August 4, 2020, <https://www.healthleadersmedia.com/finance/surgeons-pan-cuts-cms-proposed-fee-schedule-2021> (Accessed 8/6/20); “Proposed 2021 Medicare Physician Fee Schedule: What You Need to Know” By Charity Singleton Craig, CIPROMS, Inc., August 11, 2020, <http://www.ciproms.com/2020/08/proposed-2021-medicare-physician-fee-schedule-what-you-need-to-know/> (Accessed 8/13/20).
- 2 “Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; etc.” Federal Register Vol. 85, No. 159 (August 17, 2020) p. 50373; “Medicare Program; CY 2020 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; etc.” Federal Register Vol. 84, No. 221 (November 15, 2019) p. 63152.
- 3 “Proposed Policy, Payment, and Quality Provisions Changes to the Medicare Physician Fee Schedule for Calendar Year 2021” Centers for Medicare & Medicaid Services, August 3, 2020, <https://www.cms.gov/newsroom/fact-sheets/proposed-policy-payment-and-quality-provisions-changes-medicare-physician-fee-schedule-calendar-year-4> (Accessed 8/18/20).
- 4 Federal Register Vol. 85, No. 159 (August 17, 2020) p. 50373; “2021 Medicare Part B Proposed Rule Includes Coding Changes, Significant Payment Cuts” American-Speech Language-Hearing Association, August 4, 2020, <https://www.asha.org/News/2020/2021-Medicare-Part-B-Proposed-Rule-Includes-Coding-Changes-Significant-Payment-Cuts/> (Accessed 8/17/20).
- 5 Note that this is not an exhaustive list of payment rate changes, but rather some examples of the largest increases/decreases. Commins, August 4, 2020; Craig, August 11, 2020.
- 6 Centers for Medicare & Medicaid Services, August 3, 2020.
- 7 *Ibid.*
- 8 “COVID-19: Here’s What CMS Will Do With the Temporary Telemedicine Codes When the PHE Ends” By Rachel B. Goodman and Nathaniel M. Lacktman, Foley & Lardner LLP, August 12, 2020, <https://www.foley.com/en/insights/publications/2020/08/covid-19-cms-temporary-telemedicine-codes-phe-ends> (Accessed: 8/13/20).
- 9 Centers for Medicare & Medicaid Services, August 3, 2020; Federal Register Vol. 85, No. 159 (August 17, 2020) p. 50139.
- 10 “President Trump Signs Executive Order to Permanently Expand Telemedicine Benefits for Medicare Recipients” By Jack O’Brien, HealthLeaders, August 4, 2020, <https://www.healthleadersmedia.com/innovation/president-trump-signs-executive-order-permanently-expand-telemedicine-benefits-medicare> (Accessed 8/5/20).
- 11 *Ibid.*
- 12 “Neurosurgeons Raise the Alarm about Medicare’s Proposed Physician Fee Schedule” American Association of Neurological Surgeons, August 4, 2020, <https://www.aans.org/Advocacy/-/media/B7049530F4614FD4A73432F77B1DC7BE.ashx> (Accessed 8/6/20).
- 13 Commins, August 4, 2020; “Internists Say Medicare’s Changes to Payments for Office Visits Will Help Physicians and Practices” American College of Physicians, August 4, 2020, <https://www.acponline.org/acp-newsroom/internists-say-medicare-changes-to-payments-for-office-visits-will-help-physicians-and-practices> (Accessed 8/6/20).
- 14 “Medicare moving forward with planned E/M office visit changes” American Medical Association, August 4, 2020, <https://www.ama-assn.org/press-center/press-releases/medicare-moving-forward-planned-em-office-visit-changes> (Accessed 8/5/20); “ACOG Commends CMS for Recognizing the Importance of Maternity Care, Pledges Continued Advocacy for Gynecologic Care” American College of Obstetricians and Gynecologists, August 4, 2020, <https://www.acog.org/news/news-releases/2020/08/acog-commends-cms-for-recognizing-the-importance-of-maternity-care> (Accessed 8/6/20); American College of Physicians, August 4, 2020.
- 15 “2021 Quality Payment Program Proposed Rule Overview Fact Sheet” Centers for Medicare and Medicaid Services, August 3, 2020, available at: <https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1100/2021%20QPP%20Proposed%20Rule%20Fact%20Sheet> (Accessed 8/6/20), p. 5.
- 16 2021 Quality Payment Program Proposed Rule Overview
- 17 MVPs is a program that would connect measures from MIPS performance categories to specialties, specific medical conditions, or particular populations. It would incorporate population health claims, quality, cost, and improvement measures into performance categories. Federal Register Vol. 85, No. 159 (August 17, 2020) p. 50276.
- 18 “The 2021 Quality Payment Program proposal: The 3 key updates to know” By Julia Connell, Advisory Board, August 5, 2020, <https://www.advisory.com/daily-briefing/2020/08/05/qpp> (Accessed 8/6/20).
- 19 Centers for Medicare and Medicaid Services, August 3, 2020; Connell, August 5, 2020.
- 20 Centers for Medicare and Medicaid Services, August 3, 2020, p. 10.
- 21 Connell, August 5, 2020.
- 22 Centers for Medicare and Medicaid Services, August 3, 2020, p. 10.
- 23 *Ibid.*
- 24 “Medicare’s Quality Payment Program (QPP)” American College of Physicians, <https://www.acponline.org/practice-resources/business-resources/payment/medicare-payment-and-regulations-resources/macra-and-the-quality-payment-program> (Accessed 8/6/20).
- 25 “NAACOS Statement on CMS’s Proposed 2021 Medicare Physician Fee Schedule” By Clif Gaus, National Association of ACOs, August 4, 2020, <https://www.naacos.com/assets/docs/pdf/2020/NAACOS-PFSstatement080420.pdf> (Accessed 8/6/20).
- 26 *Ibid.*
- 27 *Ibid.*
- 28 “Trump Administration Proposes to Expand Telemedicine Benefits Permanently for Medicare Beneficiaries Beyond the COVID-19 Public Health Emergency and Advances Access to Care in Rural Areas” Centers for Medicare & Medicaid Services, August 3, 2020, <https://www.cms.gov/newsroom/press-releases/trump-administration-proposes-expand-telemedicine-benefits-permanently-medicare-beneficiaries-beyond> (Accessed 8/5/20).





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