

## CMS Finalizes 2022 Physician Fee Schedule

On November 2, 2021, the Centers for Medicare & Medicaid Services (CMS) released the final rule for the calendar year (CY) 2022 Medicare Physician Fee Schedule (MPFS). The final rule generally remained unchanged from the proposed version. This *Health Capital Topics* article will briefly review CMS's 2022 MPFS final rule, which will go into effect on January 1, 2022, as well as its potential impacts.

### Payment Rate Update

CMS finalized the 2022 MPFS conversion factor at \$33.59, \$0.01 higher than what was proposed, but a \$1.30 decrease from the 2021 MPFS conversion factor (a 3.73% reduction).<sup>1</sup> The upcoming year rate reductions are largely due to the end of the temporary 3.75% payment increase for 2021, which was the result of pandemic-related legislation passed by Congress in December 2020.<sup>2</sup> While the final conversion factor decrease is not as drastic as the over-10% cut between 2020 and 2021, other budget enforcement tools could result in payment decreases of up to 9.75%, barring congressional intervention.<sup>3</sup> Due to the increase in the federal deficit following passage of the American Rescue Plan Act of 2021, the Pay-As-You-Go Act (PAYGO) was triggered. This law requires that “all new legislation changing taxes, fees, or mandatory expenditures, taken together...not increase projected deficits” and “is enforced by the threat of automatic across-the-board cuts in selected mandatory programs [including most Medicare payments] in the event that legislation taken as a whole does not meet the PAYGO standard.”<sup>4</sup> Consequently, Medicare payments would be cut by 4% (the maximum amount allowed by law) for the next several years, barring congressional intervention.<sup>5</sup> However, it is worth noting that the PAYGO sequester has never gone into effect.<sup>6</sup> Therefore, it is likely that Congress will take action to avoid this 4% cut before it goes into effect in mid-January 2022.<sup>7</sup> An additional 2% Medicare payment cut is also set to begin again with the expiration of the moratorium on sequestration at the end of 2021.<sup>8</sup> Legislation in 2020 and 2021 suspended the sequestration between May 1, 2020 and December 31, 2021,<sup>9</sup> but there does not appear to be any active legislation in development to delay the return of this payment cut.

As set forth in the table below, the change in the conversion rate (as well as changes to the relative value unit weightings) resulted in relatively small payment changes to various specialties for 2022.

**Table: 2022 MPFS Estimated Impact on Total Allowed Charges by Specialty (Proposed and Final Rule)<sup>10</sup>**

Physician Specialty	Percent Change from CY 2021 (Proposed Rule)	Percent Change from CY 2021 (Final Rule)
Interventional Radiology	-5%	-5%
Oral Surgery	-4%	-1%
Portable X-Ray Supplier	+10%	+2%
Radiation Oncology	-5%	-1%
Vascular Surgery	-4%	-5%

### Telehealth Changes

Similar to the proposed rule, the final rule included regulatory restrictions (or relaxations to those restrictions) related to some telehealth services. Most notably, the final rule significantly expands access to behavioral healthcare, particularly for underserved communities.<sup>11</sup> The rule eliminates geographic barriers for patients utilizing telehealth for behavioral healthcare, allowing them to access services at home for the diagnosis, evaluation, and treatment of mental health disorders.<sup>12</sup> Further, for the first time outside of the COVID-19 public health emergency (PHE), Medicare will begin paying for mental health visits furnished by rural health clinics (RHCs) and federally qualified health centers (FQHC) through telehealth, including audio-only telephone calls.<sup>13</sup> The final rule also includes an extension for those services that were temporarily added to the telehealth list during the COVID-19 PHE to CY 2023.<sup>14</sup> This will provide CMS additional time to gather sufficient data for those services, with the intent that they may be added on a permanent basis.<sup>15</sup>

### Quality Payment Program Updates

The Quality Payment Program (QPP) is an incentive program that includes two participation tracks: the Merit-based Incentive Payment System (MIPS) and Advanced Alternative Payment Models (APMs).<sup>16</sup> MIPS

determines Medicare payment adjustments to clinicians based on their performance in a number of categories, which results in a payment bonus, penalty, or no adjustment. CMS finalized the proposed rule changes to performance category weighting as follows:

- (1) 30% for the Cost category (previously 20%);
- (2) 30% for the Quality category (previously 40%);
- (3) 15% for the Improvement Activities category (same as prior year); and,
- (4) 25% for the Promoting Interoperability category (same as prior year).<sup>17</sup>

The total MIPS score (i.e., the performance threshold) is determined from these weighted categories, and any score above or below the threshold results in positive or negative payment adjustments, respectively. For the 2022 performance year/2024 payment year, CMS finalized increasing the threshold to 75 points from the previous 60 points, consequently making it more difficult for clinicians to receive a positive payment adjustment.<sup>18</sup>

In the CY 2021 final rule, CMS introduced a replacement to the current MIPS framework – the new MIPS Value Pathways (MVPs) – with the intent of moving away from siloed reporting measures to focusing on activities that are meaningful to a clinician’s practice.<sup>19</sup> The final rule confirmed that CMS will be moving forward with implementing seven optional MVPs in 2023, as was previously proposed.<sup>20</sup> The first seven optional MVPs will be in the areas of: rheumatology; stroke care and prevention; heart disease; chronic disease management; lower extremity joint repair; emergency medicine; and, anesthesia.<sup>21</sup> Additionally, the final rule expanded the eligible clinician definition for those participating in MIPS to include both clinical social workers and certified nurse-midwives.<sup>22</sup>

### **Other Changes**

CMS is making the first changes to clinical labor pricing in almost twenty years, updating the clinical labor rates used to calculate expenses under the MPFS. These rate updates are expected to increase payments for family practice, internal medicine, and geriatric specialties.<sup>23</sup> The pricing update will take place over a four-year transition period.<sup>24</sup> CMS finalized authorization for Medicare to make direct payments to physician assistants (PAs), rather than through the PA’s employer or independent contractor, for professional services delivered under Medicare Part B starting January 1, 2022,<sup>25</sup> which will allow Medicare patients better access to PA services specifically and healthcare services generally.

Second, CMS finalized changes to its Medicare Shared Savings Program (MSSP) to give accountable care organization (ACO) participants more time to prepare for reporting electronic clinical quality measures (eCQMs). Originally set to begin in 2022, CMS proposed a transition period of two years, but added a third year in the final rule, giving ACOs until 2024, in response to concerns expressed by ACOs.<sup>26</sup> Further, CMS finalized an additional year delay to the commencement of the phase-in of the increase to the MSSP ACO quality performance standard, which ACOs must meet in order

to share in savings and avoid maximum losses; this heightened standard will not begin until 2024.<sup>27</sup>

Third, CMS finalized steps to improve its Medicare Diabetes Prevention Program (MDPP) expanded model. CMS is now waiving the enrollment fees for all organizations that enroll as an MDPP supplier on or after January 1, 2022.<sup>28</sup> MDPP services will also be shortened from a two-year period to just one.<sup>29</sup> CMS expects that these changes will usher in more suppliers, increase access to MDPP services for rural patients, and ultimately decrease the overall number of individuals with diabetes in both rural and urban areas.<sup>30</sup>

Fourth, following CMS’s request for information regarding the update to payment rates for the administration of preventative vaccines in the proposed rule, CMS finalized updated payment rates for these services. Beginning January 1, 2022, CMS will pay \$30 per dose for the administration of influenza, pneumococcal, and hepatitis B vaccines (nearly double the former \$17 per dose).<sup>31</sup> The COVID-19 vaccine payment rate will remain at the current \$40 per dose until the end of the calendar year in which the COVID-19 PHE ends.<sup>32</sup>

### **Stakeholder Reactions**

Stakeholders generally oppose the conversion factor changes in the 2022 MPFS final rule. Coupled with the looming 4% cut to PAYGO and the 2% cut from the ending moratorium on sequestration, physician payments may see a total decrease of 9.75%.<sup>33</sup> The American Medical Association (AMA) made a statement expressing their disapproval, stating:

“The final rule includes a reduction in the 2022 Medicare conversion factor of about 3.85 percent. The AMA is strongly advocating for Congress to avert this and other looming cuts to Medicare physician payments that, overall, will produce a combined 9.75 percent cut for 2022. This comes at a time when physician practices are still recovering from the personal and financial impacts of the COVID public health emergency. Congress is beginning to recognize that this financial instability could limit health care access for Medicare patients. The clock is ticking.”<sup>34</sup>

American Medical Group Association (AMGA) President and CEO Jerry Penso echoed the AMA, stating, “The decrease in the Medicare conversion factor, along with the looming sequester and PAYGO cuts, will undermine the ability of AMGA members to care for their patients.”<sup>35</sup>

The National Association of ACOs (NAACOS) commended CMS for the extended delay on eCQM reporting for MSSP ACOs.<sup>36</sup> Additionally, the American Academy of Family Physicians (AAFP) praised CMS for modernizing clinical labor pricing, increasing payment rates for vaccine administration, and expanding telehealth services.<sup>37</sup> The AAFP stated its further interest in working with CMS toward ongoing coverage of primary care telehealth services after the end of the PHE.<sup>38</sup>

## Conclusion

While not all of the final payment changes in the CY 2022 MPFS were well received by stakeholders, many praised rule changes made to vaccine administration payment updates and further expansion of telehealth services, allowing for greater patient access. Payment

concerns were generally focused on the looming physician cuts, with many calling for congressional intervention to prevent limiting patient access to services. However, some of those payment cuts, such as those related to PAYGO and the end of sequestration, are out of the hands of CMS, and require congressional action. Whether Congress will act, however, remains to be seen.

1	“Calendar Year (CY) 2022 Medicare Physician Fee Schedule Final Rule” Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule">https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/3/21).	19	For instance, performance year 2019 would be paid in 2021 due to the lag between QPP’s performance period and the payment year. Federal Register, Vol. 86, No. 139, July 23, 2021, p. 39349.
2	“Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; and Provider and Supplier Prepayment and Post-Payment Medical Review Requirements: Final rule” Federal Register, Vol. 86, No. 221 (November 19, 2021), p. 65618.	20	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule">https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/3/21).
3	“CMS Releases 2022 Medicare Physician Fee Schedule Final Rule” Association of American Medical Colleges, November 5, 2021, <a href="https://www.aamc.org/advocacy-policy/washington-highlights/cms-releases-2022-medicare-physician-fee-schedule-final-rule">https://www.aamc.org/advocacy-policy/washington-highlights/cms-releases-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/5/21).	21	“CMS Physician Payment Rule Promotes Greater Access to Telehealth Services, Diabetes Prevention Programs” Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs">https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs</a> (Accessed 11/4/21).
4	“The Statutory Pay-As-You-Go Act of 2010: A Description” Office of Management and Budget, The White House, <a href="https://obamawhitehouse.archives.gov/omb/paygo_description/">https://obamawhitehouse.archives.gov/omb/paygo_description/</a> (Accessed 11/17/21).	22	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule">https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/3/21).
5	“Medicare Sequester Cuts Possible Without Congressional Action” JD Supra, November 10, 2021, <a href="https://www.jdsupra.com/legalnews/medicare-sequester-cuts-possible-5800140/">https://www.jdsupra.com/legalnews/medicare-sequester-cuts-possible-5800140/</a> (Accessed 11/16/21).	23	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs">https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs</a> (Accessed 11/4/21).
6	<i>Ibid.</i>	24	<i>Ibid.</i>
7	<i>Ibid.</i>	25	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1654/2022%20Quality%20Payment%20Program%20Final%20Rule%20Resources.zip">https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1654/2022%20Quality%20Payment%20Program%20Final%20Rule%20Resources.zip</a> (Accessed 11/3/21).
8	Association of American Medical Colleges, November 5, 2021.	26	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs">https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs</a> (Accessed 11/4/21).
9	JD Supra, November 10, 2021.	27	<i>Ibid.</i>
10	Note that this is not an exhaustive list of payment rate changes, but rather some examples of the largest increases/decreases; bolded values represent a change from the proposed rule to final rule for the 2022 MPFS. “Medicare Program; CY 2022 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-Payment Medical Review Requirements” Federal Register, Vol. 86, No. 139 (July 23, 2021), Table 136; Federal Register, Vol. 86, No. 221 (November 19, 2021), p. 65620.	28	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs">https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs</a> (Accessed 11/4/21).
11	“CMS Physician Payment Rule Promotes Greater Access to Telehealth Services, Diabetes Prevention Programs” Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs">https://www.cms.gov/newsroom/press-releases/cms-physician-payment-rule-promotes-greater-access-telehealth-services-diabetes-prevention-programs</a> (Accessed 11/4/21).	29	<i>Ibid.</i>
12	Centers for Medicare & Medicaid Services, November 2, 2021.	30	<i>Ibid.</i>
13	<i>Ibid.</i>	31	Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule">https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/3/21).
14	<i>Ibid.</i>	32	<i>Ibid.</i>
15	<i>Ibid.</i>	33	“CMS Releases 2022 Medicare Physician Fee Schedule Final Rule” Association of American Medical Colleges, November 5, 2021, <a href="https://www.aamc.org/advocacy-policy/washington-highlights/cms-releases-2022-medicare-physician-fee-schedule-final-rule">https://www.aamc.org/advocacy-policy/washington-highlights/cms-releases-2022-medicare-physician-fee-schedule-final-rule</a> (Accessed 11/5/21).
16	“Quality Payment Program Overview” Centers for Medicare & Medicaid Services, <a href="https://qpp.cms.gov/about/qpp-overview">https://qpp.cms.gov/about/qpp-overview</a> (Accessed 11/22/21).	34	“AMA statement on physician fee schedule final rule” American Medical Association, November 3, 2021, <a href="https://www.ama-assn.org/press-center/press-releases/ama-statement-physician-fee-schedule-final-rule">https://www.ama-assn.org/press-center/press-releases/ama-statement-physician-fee-schedule-final-rule</a> (Accessed 11/5/21).
17	“Calendar Year (CY) 2022 Physician Fee Schedule Final Rule: Quality Payment Program (QPP) Policies Overview” Centers for Medicare & Medicaid Services, November 2, 2021, <a href="https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1654/2022%20Quality%20Payment%20Program%20Final%20Rule%20Resources.zip">https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1654/2022%20Quality%20Payment%20Program%20Final%20Rule%20Resources.zip</a> (Accessed 11/3/21).	35	“Congress Must Act to Prevent Medicare Cuts” American Medical Group Association, November 2, 2021, <a href="https://www.amga.org/about-amga/amga-newsroom/press-releases/110321">https://www.amga.org/about-amga/amga-newsroom/press-releases/110321</a> (Accessed 11/5/21).
18	Federal Register, Vol. 86, No. 221 (November 19, 2021), p. 65529.	36	“NAACOS Statement on CMS’s Final 2022 Medicare Physician Fee Schedule” National Association of ACOs, November 2, 2021, <a href="https://www.naacos.com/assets/docs/pdf/2021/NAACOS-PFS_PR110221.pdf">https://www.naacos.com/assets/docs/pdf/2021/NAACOS-PFS_PR110221.pdf</a> (Accessed 11/5/21).
		37	“2022 Medicare Physician Fee Schedule Represents Step Toward Prioritizing Primary Care, Family Medicine” American Academy of Family Physicians, November 3, 2021, <a href="https://www.aafp.org/news/media-center/statements/2022-Medicare-Physician-Fee-Schedule.html">https://www.aafp.org/news/media-center/statements/2022-Medicare-Physician-Fee-Schedule.html</a> (Accessed 11/5/21).
		38	<i>Ibid.</i>





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