



Statement for the Record
American College of Physicians
To the United States House of Representatives Committee on Energy and Commerce
On Health Care Legislation Slated for Full Committee Markup
December 5, 2023

The American College of Physicians (ACP) is grateful for the opportunity to submit this statement on the following legislative proposals up for markup by the full committee. We commend Chairman Guthrie, Ranking Member Eshoo, and the House Committee on Energy and Commerce's Health Subcommittee for their commitment to advancing bipartisan health care legislation that would improve access to health care for American seniors and support the physicians who care for them.

ACP is the largest medical specialty organization and the second largest physician membership society in the United States. ACP members include 161,000 internal medicine physicians, related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness.

Strengthening Patient Access to Care by Improving Medicare Payment

For years physicians have struggled with a broken Medicare payment system that does not allow them to keep up with rising practice expenses and the cost of providing care. Unlike nearly every other Medicare payment system, the Medicare Physician Fee Schedule (MPFS) does not include annual inflationary adjustments. When accounting for inflation, current Medicare physician payment rates have decreased by a staggering 26 percent since 2001. This broken, inadequate payment system is contributing to the physician workforce shortage we are now facing, where record numbers of clinicians are leaving the workforce. The impact of this is being felt across the country with patients struggling to secure medical appointments, waiting for months to see primary care or specialty care physicians. ACP is very concerned that another Medicare payment cut would negatively impact patients' health outcomes. Because of the MPFS "budget neutrality" rule, any payment increase in the fee schedule must be offset by cuts elsewhere, no matter how badly the increases are needed to improve patients' access to care. By enacting legislation to support payment stability for physicians, Congress will be helping to improve the health and well-being of everyone enrolled in Medicare and to reduce the likelihood of further health care consolidation.

ACP supports H.R. 6545, the Physician Fee Schedule Update and Improvements Act. This bill includes an important provision that would allocate 3 percent to the 2024 Medicare conversion factor, which would represent a 1.75 percent increase to the approved level. Currently, physicians participating in the MPFS are bracing for a 3.4 percent across-the-board cut, slated to take effect on January 1, 2024. This temporary update to the MPFS would offset the pending cuts and provide much needed relief and stability for clinicians so that they can continue to keep their practices open and take care of their patients effectively.

H.R. 6545 also includes several provisions from H.R. 6371, the Provider Reimbursement Stability Act of 2023, that ACP supports. It would raise the budget neutrality threshold to \$53 million and would use cumulative increases in the Medicare Economic Index (MEI) to update the threshold every five years afterwards. We believe that this is a practical approach, which would help account for inflation. ACP also supports the provisions in the bill that would require CMS to update the direct costs associated with practice expenses (clinical labor, the prices of equipment, and the prices of medical supplies) simultaneously at least once every five years. The legislation also includes a provision from H.R. 6366, which would extend the work geographic practice costs index for another year to 1.00 for any locality where the index would be less than 1.00. We support this as it would improve the accuracy of geographic adjustment factors.

Further, H.R. 6545 includes provisions from H.R. 6369, which would extend incentive payments for participation in eligible advanced alternative payment models (APMs) through 2026 and would tier bonuses according to how long a provider has participated in an APM, to account for increased up-front costs. The bill includes a provision that would provide the Secretary of Health and Human Services (HHS) with flexibility for tiering bonuses. ACP supports extending incentive payments for APMs to support physicians' transition from a volume-based fee-for-service health care system to one that is based on the value and quality outcomes of health care delivered to the patient. Instead of having a tiered approach for bonuses, we [recommend](#) that Congress considers freezing the revenue threshold increase for five years to encourage more physicians to transition from fee-for-service into APMs and maintain financial viability for those already participating in such programs.

Improving Health Care Price Transparency and Lowering Health Care Costs for Patients

The cost of prescription drugs continues to rise, which greatly affects access to life-saving treatments for patients who are unable to afford high out-of-pocket costs. Patients increasingly face higher co-pays, more drug tiers and prescription drug deductibles, adding to the burden they face in affording high-cost medications. Many Americans face the difficult choice of filling their prescriptions or paying for necessities such as food or housing. As outlined in ACP's policy position paper, [Policy Recommendations for Public Health Plans to Stem the Escalating Costs of Prescription Drugs](#), the United States spends more on prescription drugs than other high-income countries, with average annual spending of \$1,443 per capita on pharmaceutical drugs and \$1,026 per capita on retail prescription drugs. In a [2021 study](#) by the Rand Corporation, it was further affirmed that prices in the United States were 256 percent higher, on average, than in 32 other countries with comparable economies and when only comparing brand-name drugs, prices in the United States were 344 percent higher.

The College supports policy to improve transparency, accountability, and competition in pharmacy benefit manager (PBM) practices to reduce the price of prescription drugs for our patients. Prices of prescription drugs have [increased](#) by more than 10 percent per year for each of the top 20 brand-name drugs prescribed to seniors, and PBMs negotiate rebates from those higher prices. Increased transparency is needed on the part of PBMs and health plans to provide greater understanding of drug prices, help patients make informed decisions, and support a more sustainable health care system. PBMs need greater transparency to reduce confusion about how they work and make decisions about formularies and the amount of money they take in and the savings actually passed on to patients.

For these reasons, ACP supports H.R. 5385, the Medicare PBM Accountability Act. This legislation aims to lower the costs of prescription drugs for seniors covered by Medicare Part D and Medicare Advantage plans. It would require PBMs to submit annual reports to the Secretary of HHS on PBMs' cost savings incurred from rebates, discounts, and price concessions. By enhancing transparency around how PBMs are delivering and paying for prescription drugs, Medicare drug

plans can select PBM services that will best serve the needs of beneficiaries, lowering the costs of prescription drugs.

Further, ACP supports Section 4 of H.R. 2880, the Protecting Patients Against PBM Abuses Act, which aims to increase PBM data reporting to enhance transparency for Medicare Part D. Specifically, it would set out new requirements for PBMs to report data on rebates and administrative fees to HHS. It would also require that HHS deidentify the data and make it publicly available so that policy makers and the public will have a better understanding of how rebates and administrative fees impact the costs of drug plans. ACP supports deidentifying data on negotiated rebates with specific companies to protect confidential information that could be considered trade secrets or could have the effect of increasing prices.

Another approach to address the rising costs of health care is to remove barriers to biosimilars market entry and improve patient access to biosimilars. Research shows that biosimilars will [reduce direct spending](#) on biologic drugs by \$54 billion from 2017 to 2026. **We are supportive of H.R. 1352, the Increasing Access to Biosimilars Act of 2023.** This legislation would encourage adoption of biosimilars in Medicare and improve biosimilar accessibility, by establishing a new pilot program – a voluntary, shared savings demonstration program – for providers of biosimilars in Medicare Part B.

ACP has long [supported](#) the Medicare Part D low-income subsidy program (LIS) that assists seniors with fewer resources in paying for their prescription drugs. Twelve million Medicare Part D beneficiaries are enrolled in the LIS program. Although use of low-cost generic drugs by Part D beneficiaries is relatively high and continues to increase as more generics become available, the generic drug use rate is lower among LIS enrollees than among other Medicare beneficiaries. We support modifications to this program to encourage the use of lower-cost generic or biosimilar drugs by eliminating cost sharing for generic drugs for LIS enrollees. **Therefore, the College endorses H.R. 5386, the Cutting Copays Act.** This legislation would eliminate cost-sharing for generic drugs for LIS beneficiaries, helping to incentivize the use of generic drugs.

Support for Telehealth and Physician Privacy

The College supports the expanded role of telehealth as a method of health care delivery that may enhance patient–clinician collaborations, improve health outcomes, increase access to care from physicians and members of a patient's health care team, and reduce medical costs when used as a component of a patient's longitudinal care. We also have great concern for the safety of all health care personnel and patients. Our physician members and other health care professionals continue to face a growing number of threats, intimidation, and harassment in the workplace. Given the [rise in violence against physicians](#), **ACP supports H.R. 6364, the Medicare Telehealth Privacy Act of 2023.** This bill would ensure that HHS will not publicly post the addresses of participating telehealth practitioners. We believe it would provide privacy protections for physicians so that they can effectively treat and care for patients via telehealth.

Further, the College supports the provision in H.R. 6366 that would delay payment reductions and data reporting periods for the Clinical Laboratory Fee Schedule under the Protecting Access to Medicare Act (PAMA). We believe that it would improve patient access to laboratory tests used to diagnose, monitor, prevent, and manage diseases for Medicare beneficiaries. PAMA implementation has resulted in significant cuts to Medicare reimbursement for clinical laboratory testing, making it harder for small, independent, physician-owned laboratories to remain open.

Conclusion

ACP looks forward to working with the committee to advance these policies and we stand ready to offer the perspective of internal medicine clinicians on future legislation or hearings. Should you have any questions, please contact Vy Oxman, Senior Associate of Legislative Affairs, at 202-261-4515 or via email at voxman@acponline.org.