



October 25, 2024

The Honorable Tom Cole  
Chairman  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

The Honorable Rosa DeLauro  
Ranking Member  
Committee on Appropriations  
United States House of Representatives  
Washington, DC 20515

The Honorable Patty Murray  
Chair  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

The Honorable Susan Collins  
Vice Chair  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

Dear Chairman Cole, Ranking Member DeLauro, Chair Murray, and Vice Chair Collins:

On behalf of the American College of Physicians (ACP), I am writing in reference to the Fiscal Year 2025 Labor, Health and Human Services, Education, and Related Agencies (LHHS) appropriations bills, H.R. 9029 and S. 4942. ACP greatly appreciates that your committees included report language regarding utilization estimates for new Medicare codes by the Centers for Medicare and Medicaid Services (CMS) in [H. Rept. 118-585](#) and [S. Rept. 118-207](#) as, “Overestimating Utilization of New Codes in the Fee Schedule” and, “Physician Fee Schedule Codes”, respectively. As you work to reconcile and finalize these bills, we urge you to continue to include this report language in any final FY2025 appropriations package and accompanying joint explanatory statement. This report language is critical to determine if there is a difference between the CMS estimate and the actual utilization of new codes which could negatively impact the Medicare Physician Fee Schedule (MPFS). We respectfully ask that any final end-of-year legislative package or omnibus spending bill and accompanying joint explanatory statement recede to the House text of this report language.

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. Additionally, internal medicine is the specialty with the largest number of active physicians specializing in primary care, with 120,342 internal medicine physicians being identified as specializing in primary care in 2021.

The aim of this report language is for CMS to work together with the Government Accountability Office (GAO) and furnish the needed data so that GAO can conduct a look-back study (of ten years) and reconcile CMS’s overestimates and underestimates of utilization with actual usage when changes to

the MPFS—either adding new codes or increases to existing codes—are implemented. For changes to the MPFS, CMS is statutorily required to make predictions about their usage. CMS is then required to hold back from the MPFS enough reimbursement that would cover the full utilization estimate for the new codes or fee schedule changes. Due to statutorily required “budget neutrality” (BN), any cost of a new code or increase in codes of over \$20 million in the MPFS must be offset by across-the-board cuts to other codes, no matter how badly the increase is needed to improve patient access to care. So, the result is that the amount withheld from the fee schedule due to BN could exceed the needed amount if the estimate was above the actual code utilization. Unfortunately, the difference in estimated usage versus actual usage does not get returned to the fee schedule, leading to unnecessary physician payment cuts. The objective of the report language is to accurately determine the amount in physician reimbursement that was held back versus the actual amount needed to pay for the MPFS changes. **Accordingly, we believe that the House version of this report language, which includes the GAO study, is well suited for this purpose and respectfully ask that any final FY 2025 appropriations package clarify that this language is controlling.**

ACP is committed to protecting seniors’ access to care by stopping a 2.8 percent BN cut to Medicare physician payments scheduled to begin on January 1, 2025. Systemic flaws in the physician fee schedule described above and complicated budget rules have led to a cycle of payments requiring yearly congressional intervention to mitigate the impact of these cuts. This cut is exacerbated by the fact that physician payments under Medicare simply do not keep up with the pace of inflation, as physicians are the only health care professionals in Medicare who have not received updates that are adjusted with the cost of inflation. As a result, from 2001 to 2023, Medicare physician payments [decreased by 26 percent](#) when adjusted for inflation. While the 2.8 percent cut needs to be addressed hopefully by a year-end legislative package, this report language can help prevent needless Medicare physician cuts in the future. We believe this report language could hopefully lead to enactment of bills such as the Provider Reimbursement Stability Act of 2023, H.R. 6371, which would require that CMS adjust payments made to clinicians in Medicare if there is a difference between the estimate and the actual utilization, and that difference implicates BN.

In closing, we urge you to continue to include the highlighted report language above (receding to the House version) to further the effort to pass legislation that leads to financial stability for our practices so that we can maintain access to care for our patients. Please contact Jared Frost, Manager, Legislative Affairs at [jfrost@acponline.org](mailto:jfrost@acponline.org) or 202-261-4526 if you have any questions or need any additional information.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Issac Opole". The signature is written in a cursive style with a large initial "I" and "O".

Issac Opole, MBChB, PhD, MACP  
President