STATEMENT OF THE

AMERICAN COLLEGE OF PHYSICIANS –

AMERICAN SOCIETY OF INTERNAL MEDICINE

TO THE COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON HEALTH

Hearing on Medicare Payment Policy:

Ensuring Stability and Access through Physician Payments

February 14, 2002

The American College of Physicians-American Society of Internal Medicine (ACP-ASIM) -- representing 115,000 physicians and medical students -- is the largest medical specialty society and the second largest medical organization in the United States. Internists provide care for more Medicare patients than any other medical specialty. We congratulate the Subcommittee on Health for holding this important hearing. Of the College's top priorities for 2002, addressing the inadequacies of physician payment is the most critical to our members. ACP-ASIM thanks Congressmen Michael Bilirakis, Chairman of the Subcommittee, Sherrod Brown, Ranking Member of the Subcommittee, and other members, for holding this important hearing to discuss ways to ensure stability and access in the health care system through adequate physician payment. We also want to extend special appreciation to Chairman W.J. "Billy" Tauzin and Ranking Member John Dingell for their efforts to seek stability in the physician payment system.

Background

Beginning January 1, 2002, Medicare reimbursement payments to physicians and other health care professionals fell an average 5.4 percent. Despite serious concerns raised by ACP-ASIM and other medical associations, and warnings from the Medicare Payment Advisory Commission (MedPAC), medicine is having to endure the fourth physician payment cut in ten years.

This is not a problem that was created overnight. Congress adopted the current physician payment methodology (known as the Sustainable Growth Rate or SGR) in the Balanced Budget Act of 1997. Even then, ACP-ASIM recognized the serious flaws inherent in the SGR payment system and voiced our concern. Congress attempted to make corrections to the payment formula in 1999 with the Balanced Budget Refinement Act, however, it was not sufficient enough to correct the intrinsic problems. The recent economic downturn the country is now facing has only exacerbated the problem.

Recognizing the unfairness of the SGR methodology and the tremendous hardship it has placed on physicians across the country, a super-majority of members of Congress cosponsored legislation that would stymie the magnitude of the 5.4 percent cut. Introduced in the waning days of the first session of the 107th Congress, "the Medicare Physician Payment Fairness Act of 2001," (H.R. 3351 and S. 1707) would have cut the SGR update to physicians to 0.9 percent, rather than the current 5.4 percent cut.

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ACP-ASIM continues to strongly support this legislation. Unfortunately, Congress failed to act prior to adjournment and physicians are consequently now beginning to feel the affects of an across-the-board reduction in their medical practices.

Flawed Data Used in Formula

The 5.4 percent across-the-board reduction in Medicare payment is primarily due to the flawed SGR system that governs the annual payment for physician services. The SGR system errantly ties physician payment to the Gross Domestic Product (GDP). There is no other segment of the health care industry that uses such a methodology to update payment. What is most unfortunate is that this method of tying physician payment to the health of the overall economy bears absolutely no relation to the cost of providing actual physician services. In the years where the economy is facing a downturn, such as today, a reduction in physician payment is significant.

In its March 2002 report to the Congress, MedPAC expresses grave concern about the underlying problem of tying the SGR to the economy. MedPAC reports that the current SGR system may even cause payments to deviate from physician costs because it does not fully account factors affecting the actual cost of providing services. Specifically, while the current SGR payment system accounts for input price inflation and productivity growth, it provides no opportunity to account for other factors, such as an increase in the regulatory burden of the Medicare program.

In addition to the flawed SGR payment system, physicians have repeatedly been penalized for inaccurate estimates in the past. Since the SGR payment formula was first utilized in 1998 and 1999, Medicare officials have consistently relied upon flawed data for the annual update. Because the SGR formula is cumulative (i.e., it relies on previous years' estimates), these errors that were never corrected are compounded, further exacerbating the problem year after year. Due to these successive errors, the spending target is about $15 billion lower than it actually should be.

Effect on Physicians and Their Patients

A physician payment cut of this proportion is a tremendous blow to physicians, particularly internists. According to a 2001 Medical Group Management Association study, Medicare payments account for nearly 50 percent more of the average internists revenue than the average primary care physician. The 5.4 percent physician payment cut comes at a time when malpractice premiums are at their highest levels, the amount of regulatory burden it at its peak (such as costs associated with complying with HIPAA), and the costs of other overhead expenses are dramatically increasing. This culmination of events may force physicians to make difficult choices in order to continue to operate.

Facing the rising cost of practicing medicine, physicians may be forced to limit the number of Medicare patients in their practice; lay off staff that help Medicare patients with appointments or medications; relocate to areas with a younger, non-Medicare eligible patients; spend less time with Medicare patients; discontinue participation in the Medicare program; limit or discontinue investment in new technology; limit or discontinue charitable care; or retire. A recent American Academy of Family Physicians study confirmed that physicians have to make tough decisions, citing that nearly 30 percent of family physicians are not taking new Medicare patients.

This will make it even more difficult for patients to gain access to an increasingly under-funded health care system. The effects of the most recent cut in reimbursement will most likely be hardest felt in rural areas. The problems that we see today will certainly only get worse unless the methodology in which physician payment is computed is immediately addressed.

In a survey sponsored by MedPAC and conducted by Project HOPE and The Gallup Organization in 1999 (Schoenman and Cheng 1999), many physicians expressed concerns about payment levels. About 45 percent of them said that reimbursement levels for their Medicare fee-for-service patients were a very serious problem, compared with 25 percent who reported reimbursement levels for private fee-for-service was a very serious problem.

Finally, many physicians who responded to MedPAC's 1999 survey reported that they had taken steps to reduce their practice costs. More than one-half said their practice had reduced staff costs, and two-thirds said their practice had delayed or reduced capital expenditures. It should be noted that because this survey was taken *three years ago,* it does not reflect the current level of physician concern — which is likely to be even greater given the 5.4% reduction that went into effect on January 1, 2002.

More recent studies confirm doctor frustration with inadequate reimbursement from all areas of physician payment. In Washington State, for example, a Washington State Medical Association poll of members in November 2001 revealed that 57 percent of physicians said that they are limiting the number or dropping all Medicare patients from their practice. The report blames the many years of decline of the state's health care delivery system, characterized by a slow erosion of funding for public health, growing administrative expenses for practitioners and mounting frustrations of physicians trying to cope with myriad of regulations.

In December 2001, the American Medical Association conducted a state-by-state analysis of the impact of the 5.4% Medicare cut, which revealed a tremendous blow to the states. In Louisiana, for example, physicians' total Medicare losses will exceed $28 million. In Michigan, physicians are expected to lose $105 million. Surveys in both Louisiana and Michigan show that 80 percent of physicians in the over-50 age group are considering retirement or job changes. Florida physicians stand to lose more than $206 million, making it the second highest loss only to New York ($207 million) in physician payment reduction. And in Ohio, physicians' total Medicare losses will exceed $95 million, making Ohio the eighth ranked state in total Medicare losses.

MedPAC Recommendations to Congress

In its March 2001 report to the Congress, MedPAC recommended that the Congress replace the SGR system with an annual update methodology based on factors influencing the unit costs of efficiently providing physician services. According to MedPAC, getting the price right is more important than controlling spending through the payment mechanism. The Commission noted that the main problems with the SGR were that it failed to account for all relevant factors that affect the cost of providing services, and the system exacerbates Medicare's problem of paying different amounts for the same service depending on where it is provided (physician's office, hospital outpatient department, ambulatory surgical center). The Commission added that other inherent problems with the SGR system stem from its volatility and unpredictability. These problems are as true today as ever.

In MedPAC's March 2002 Report to Congress, the Commission will once again recommend that Congress repeal the SGR system due to these same concerns. This time, however, MedPAC offers more concrete recommendations for Congress to ask the Secretary of HHS to have implemented for the year 2003 and beyond.

MedPAC's proposed payment method would make updates to physician services similar to the updates for other services and promote the goal of "achieving consistent payment polices" across ambulatory care settings, including physician offices, hospital outpatient departments, and ambulatory surgical centers. MedPAC's recommendations are as follows:

(1) The Congress Should Repeal the Sustainable Growth Rate System and Instead Require that the Secretary Update Payments for Physician Services Based on the Estimated Change in Input Prices for the Coming Year, Less and Adjustment for Growth in Multifactor Productivity;
(2) The Secretary Should Revise the Productivity Adjustment for Physician Services and Make it a Multifactor Instead of a Labor-Only Adjustment; and

(3) The Congress Should Update Payments for Physician Services by 2.5 Percent for 2003.

The Congress Should Require the Secretary to Update Payments for Physician Services Based on the Estimated Change in Input Prices, Less and Adjustment for Growth in Multifactor Productivity

In MedPAC's first recommendation to repeal the SGR system, the Commission states, "Replacing the SGR system in this way would solve the fundamental problems of the SGR system." The adjustment the Commission recommends would change the current measure of input price inflation for physician services – the Medicare Economic Index (MEI) – to make it a forecast of input price growth for the coming year. Further, the productivity adjustment from the MEI would also be removed so the MEI is only a price measure and productivity can be considered separately in update decisions.

The Secretary Should Revise the Productivity Adjustment for Physician Services and Make it a Multifactor Instead of a Labor Only Adjustment

MedPAC's second recommendation to revise the productivity adjustment to account for labor and nonlabor factors is consistent with the way physician services are produced. While labor accounts for the majority of the costs for providing physician services, other inputs, such as office space, medical materials and supplies, and equipment, are also important to consider. This adjustment would more accurately measure growth in productivity by considering all inputs. However, ACP-ASIM cautions that tying physician productivity in order to lower the physician payment update may be problematic. Due to increased compliance with federal regulations, such as Medicare paperwork and HIPAA mandates, this may be what is contributing to the lower productivity, and may therefore skew the update. MedPAC acknowledges this problem, but admits that it has little or no data to support compensating for this issue.

The first two recommendations in physician payment methodology would allow the updates to more fully and accurately account for factors affecting costs, and it would decouple payment updates from spending control. Further, the revision to the productivity adjustment will make payment of physician

services consistent with modern methods of measuring productivity, and make payments stable and predictable from year to year.

Congress Should Update Payments for Physician Services by 2.5 Percent for 2003

MedPAC's third recommendation to update physician services by 2.5 percent for January 2003 is the application of the first two recommendations. Since input prices are expected to rise 3 percent in 2002, when factored in with a 0.5 percent productivity adjustment, the result yields a 2.5 percent payment increase.

Solution

ACP-ASIM strongly supports MedPAC's goal of "achieving consistent payment polices" for physicians and their practices. Therefore, ACP-ASIM supports the Commission's recommendation to replace the SGR system and to require Medicare to update payments for physician services based on the estimated change in input prices for the coming year. We believe, however, that there needs to be further examination of the MedPAC recommendation to apply a negative adjustment to the update for productivity growth. We agree that any productivity adjustment for physician services should be based on a several factors instead of being based on labor costs alone. ACP-ASIM also supports the Commission's recommendation to increase physician payment by 2.5 percent for 2003. Further, ACP-ASIM believes that consideration should be given to establishing an automatic default update, based on the revised MEI, should Congress decline to act on MedPAC's recommendation.

These necessary changes will not only put the physician payment system in line with other segments of the health care industry, but more importantly, these changes will allow for an accurate accounting for all factors that impact the cost of providing physician services. Further, these changes will also contribute to a more stable and predictable physician payment schedule for years to come.

Finally, ACP-ASIM continues to support legislation, H.R. 3351 and S. 1707, "the Medicare Physician Payment Fairness Act of 2001"-- that would cut the SGR update to physicians to 0.9 percent, rather than the current 5.4 percent cut – or any other legislative vehicle that would bring immediate relief and halt the 5.4 percent payment cut.

Conclusion

ACP-ASIM is pleased that the Subcommittee is addressing the serious problems associated with the current SGR physician payment system. We strongly urge the Subcommittee to adopt the MedPAC recommendations in the March 2002 Report to the Congress, and ask the Subcommittee to halt the 5.4 percent cut that became effective on January 2002 as quickly as possible.