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Special Regulatory Edition: Highlights of the 2020 Medicare Physician Fee Schedule and Quality Payment Program Proposed Rule

Although Congress is out of session, Reg Season is in full gear!

Last week, CMS released major regulations that impact emergency medicine: The Calendar Year (CY) 2020 Medicare Physician Fee Schedule (PFS) and Quality Payment Program (QPP) Proposed Rule, the CY 2020 Outpatient Prospective Payment System (OPPS) Proposed Rule, and the Fiscal Year (FY) 2020 Inpatient Prospective Payment System (IPPS) Final Rule.

The CY 2020 PFS and QPP Proposed Rule has the most significant impact on emergency physicians since it includes proposals that affect Medicare physician payments and the Merit-based Incentive Payment System (MIPS), which is the main physician quality reporting program in Medicare. ACEP is currently reviewing the proposed rule and will be drafting comments on the rule over the next several weeks. It is important to note that these are only proposed policies. CMS will be releasing a final rule in early November that finalizes policies for 2020.

Found below are some key highlights of the proposed rule:

PFS

- **Increasing the Value of ED E/M Services:** CMS is proposing an increase in the value of ED Evaluation/Management (E/M) services, the most commonly billed services by emergency physicians. This proposed increase, which would take effect in 2020 if finalized, was based off of survey data collected by ACEP from practicing emergency physicians. For more information about the ED E/M proposed changes, please [click here](#).

For 2021, CMS is proposing an increase to the other office and outpatient E/M services, which could lower the eventual payments to ED E/M codes because of required budget neutrality in Medicare.

- **Reducing Documentation Burden:** CMS is proposing broad flexibility for redocumenting information already included in the medical record. Specifically, CMS is proposing to allow the physician, the physician assistant, or the advanced practice registered nurse who delivers and bills for their professional services to review and verify, rather than re-document, information included in the medical record by physicians, residents, nurses, students, or other members of the medical team.

- **Adding a New Benefit for Opioid Use Disorder Coverage:** CMS is proposing to add a new benefit for covering treatment services delivered by an opioid treatment program (OTP). OTPs do not include EDs, as they must be certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) and meet certain accreditation standards. CMS is also proposing to

establish bundled payments for the overall treatment of OUD and is seeking comment on possibly reimbursing medication-assisted treatment (MAT) in the ED.

MIPS

• **Changing the definition of “hospital-based” for groups to be eligible for hardship exemptions for the Promoting Interoperability (EHR) category of MIPS:** Currently, clinicians who are considered “hospital-based” as individuals are exempt from the Promoting Interoperability category. However, if individual clinicians decide to report as part of a group, they lose the exemption status if even a single group member does not meet the definition of “hospital-based.” ACEP has repeatedly argued that this is unfair as it penalizes hospital-based clinicians who work in multi-specialty groups. CMS is proposing to modify this policy by exempting groups from the Promoting Interoperability category of MIPS as long as 75 percent of individuals in the group meet the definition of hospital-based.

• **Increasing the Performance Threshold under MIPS:** (the threshold that a clinician must exceed to be eligible for a payment bonus). CMS is proposing to increase the threshold from 30 points in 2019 to 45 points in 2020, and 60 points in 2021. CMS has an additional bonus on top of their regular performance threshold. CMS is proposing to increase the threshold for this additional bonus from 75 points in 2019 to 80 points in 2020.

• **Adding new Qualified Clinical Data Registries (QCDR) Requirements:** CMS proposes numerous new requirements for both 2020 and 2021 for QCDRs which will have a direct impact on ACEP’s own QCDR, the [Clinical Emergency Data Registry](#).

For a more comprehensive summary of the rule, please [click here](#).

Stay tuned for updates and additional analysis by visiting ACEP’s weekly regulatory blog at <https://www.acep.org/regsandeggs>.

Take Action on Surprise Billing during the August Congressional Recess to Protect your Profession and Access for Patients!

Congress is in recess through the beginning of September. This is an opportune time during this six-week Congressional work period for ACEP Members to communicate with your legislators that surprise billing needs to be fixed in a way that holds insurance companies accountable while protecting patients. These work periods give legislators a chance to listen to the concerns of the people they represent and gauge where they should be on important issues of the day.

What You Can Do to Help!

- Download and use the materials in the [August Recess Toolkit](#) on surprise billing, including guidance on how to schedule in-district meetings, talking points, and meeting leave behinds.
- [Send an email to your legislators](#) during the recess period then share your communications on social media. We have prepared sample emails that you can customize to your U.S. Senators and Representative.
- Let us know about your interactions! We have created an [August recess meeting feedback form](#) where you can report on your meeting or interaction.

Reminder that some 911 Members will receive an email or phone call from Soapbox Consulting who is assisting our grassroots advocacy on surprise billing. They will be reaching out specifically to ACEP members who live in the congressional districts of legislators that serve on the Education and Labor and Ways and Means Committees. Since these legislators will take up surprise billing legislation in September, it is critical that we communicate with them during the district work period.

If you have any questions at all about how to best advocate on the surprise billing issue, please contact [Jeanne Slade](#) in the ACEP Washington DC office.



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