April 16, 2024

Hon. Ron Wyden
Chair, Senate Committee on Finance
221 Dirksen Senate Office Building
Washington, D.C. 20510

Hon. Mike Crapo
Ranking Member, Senate Committee on Finance
239 Dirksen Senate Office Building
Washington, D.C. 20510

RE: ACAAI Statement for the Record in Response to US Senate Committee on Finance Committee Hearing: Bolstering Care through Medicare Physician Payment – Thursday, April 11, 2024

The American College of Allergy, Asthma, and Immunology's (ACAAI's) Advocacy Council appreciates the Senate Committee on Finance holding a hearing on improving chronic care through Medicare physician payment. We hope this hearing highlighted the insufficiency of Medicare reimbursement for physicians who care for patients with chronic conditions.

ACAAI represents more than 6,000 board-certified allergists and healthcare professionals. Allergists specialize in treating both adult and pediatric patients with chronic conditions such as asthma, food allergies, hives or urticaria, stinging insect hypersensitivity, sinus problems, allergic rhinitis, anaphylaxis, immune deficiencies, and atopic dermatitis or eczema, among other things.

Chronic conditions generally cannot be cured. They require ongoing care from a trusted and skilled clinician to effectively manage the patient's condition. Chronic care for a condition such as asthma requires regular office visits and medication adherence and management. Modern technology makes it possible to track symptoms outside of the exam room and allows patients to communicate with clinicians more regularly through portal messages. The current reimbursement model does not adequately account for these advances. Improvements are needed so that clinicians are reimbursed in a way that incentivizes care management and supports modern clinical approaches to chronic care management.

Recent policy changes such as revised evaluation and management (E/M) code values and documentation requirements have helped allergy practices receive more adequate reimbursements. However, more is needed.

Overall, we agree with many of the key issues brought up in the hearing, including low physician payments, the fragmented system of services produced by the Physician Fee Schedule, and the lack of meaningful value or clinical relevance in the metrics used in value-based payment programs such as the Medicare's Merit-Based Incentive System (MIPS).

The ACAAI agrees with the Finance Committee that physician payment reform is necessary to improve treatment for patients with chronic conditions. To achieve this goal, ACAAI recommends:

- **Permanently preventing various Medicare reimbursement reductions from taking effect at the start of each calendar year.** ACAAI is appreciative of Congress' efforts to avert reductions to Medicare reimbursement rates, but the annual cycle of physicians advocating against cuts to the Conversion Factor to prevent Medicare reimbursement reductions highlights the need for a sustainable solution. We encourage the Senate to introduce and pass a companion version of Pass H.R. 2474, the Strengthening Medicare for Patients and Providers Act, and H.R. 6371, the Provider Reimbursement Stability Act of 2023.

  Congress must permanently waive the 4% PAYGO reduction put into place when passing the American Rescue Plan of 2021. Moreover, the continuous extension of the 2% Medicare sequestration reduction, initially intended to be only for ten years when it was implemented in 2011, has created an enduring challenge for healthcare providers. This reduction, in combination with the expiration of the MIPS exceptional performance bonus and other policies, has made it difficult for many allergists to receive meaningful Medicare reimbursement adjustments. Creating greater financial certainty for allergy practices is not just a solution but a lifeline for the healthcare workforce serving patients facing chronic conditions, ultimately ensuring access to quality care for those who need it most.

- **Congress should pass *S.3805 No Fees for EFTs Act*, which would close the EFT fee loophole by specifying that fees are prohibited for transactions occurring directly between health plans and providers, including EFT transactions facilitated on behalf of health plans by covered entities or third parties.** Additionally, Congress should prohibit automatic Virtual Credit Card (VCC) payments unless providers give advanced consent, effectively changing VCCs from opt-out to opt-in payment options. HIPAA has established a standard electronic transaction for Electronic Funds Transfer (EFT) payments to healthcare providers, promoting the transition away from paper checks. These EFT payments are akin to an employer directly depositing an employee's paycheck into their bank account and have been increasingly adopted, with 75% of claims payments utilizing the standard EFT transaction as of 2022. However, certain commercial payers exploit a loophole that allows them to charge healthcare providers additional fees for EFT transactions.

  In addition, some commercial health plans attempt to reimburse physicians using Virtual Credit Cards (VCCs). These are electronic numbers provided to physicians for payment, similar to credit card transactions, but they often entail payment fees. Physicians should have the option to opt out of VCC payments and receive a standard EFT transaction, which is free of additional charges. However, the opt-out process can be administratively burdensome for healthcare practices, and the alternative EFT payment may also carry fees when facilitated by third-party payment vendors. While CMS can regulate HIPAA transaction standards, it lacks the authority to address VCC-related issues. Congress therefore needs to act to protect practices from VCC payment fees.

- **Simplifying Merit-Based Incentive Payments (MIPS) and Advanced Payment Models.** Value-based payments, while well-intentioned, can be burdensome for allergists treating chronic conditions. As currently constructed, programs such as MIPS require significant investment of resources to effectively participate but have limited opportunities for physicians to receive significant payment increases as a reward for this investment. Allergists would benefit from less burdensome and more meaningful requirements to succeed in these programs, with a reformed payment incentive system to increase the benefits of succeeding in value-based payment programs.

  Additionally, physicians would have more success in value-based payment models if they were specifically tailored to the conditions they treat. We are disappointed that CMS has not tested any of the physician-focused payment models (PFPM) recommended by the PFPM Technical Advisory Committee (PTAC). In the MACRA legislation that created MIPS, Congress intended for PFPMs to serve as a physician-led alternative pathway to value-based care for chronic conditions to supplement MIPS and Advanced APMs. ACAAI's model, the Patient-Centered Asthma Care Payment Model, was among the dozens of models that the PTAC recommended to CMS. Our model is an example of an innovative reimbursement model to reward effective chronic care management for asthma. Congress should direct CMS to dedicate a portion of CMMI's budget to implement PFPM recommended by PTAC.

- **Continuing bipartisan efforts to reform prior authorization, particularly in the Medicare Advantage program by reintroducing the *Improving Seniors Timely Access to Care Act originally considered in the 117th Congress*.** Requiring health plans to streamline their prior authorization processes will benefit physicians treating chronic care. Prior authorization, often used excessively by health plans, creates immense administrative challenges for physicians. It is essential that providers treating advanced chronic conditions, particularly amid widespread physician shortages, care for as many patients as possible. The barriers put in place due to prior authorization exacerbate challenges for patients with chronic conditions when accessing care.

  While a recent CMS final rule implements much of this policy, gaps continue to exist. For example, the final rule for prior authorization does not apply to drugs. Medications are an essential component of a patient's chronic care management. Delaying a patient's access to their medication can disrupt their care.

  Congress should move to pass the *Improving Seniors Timely Access to Care Act* to help close these gaps. Congress should also further limit health plans' use of prior authorization and penalize plans for improperly denying claims. ACAAI also recommends that Congress explore a program that requires health plans to adopt a "fast-track" for physicians who have a high amount of their prior authorization claims approved.

- **Curtailing the influence of Pharmacy Benefit Managers (PBM) in dictating which medications treating chronic conditions (such as inhalers for treating asthma) are included in formularies.** To address and improve how physicians treat chronic care, they should be able to prescribe medications that, according to their expert opinion, would best improve the quality of life for someone living with a chronic condition. This is especially true for treating chronic conditions such as asthma where the popular and effective inhaler Flovent was recently removed from the market. Now, PBMs are refusing to include the cheaper, generic version on their formularies. The influence PBMs have on drug availability should be put into question, especially for treating chronic conditions. The Advocacy Council has endorsed the Senate Finance Committee's efforts to reform PBMs. We urge the Committee to continue its strong push to pass a law that would reign in the influence of PBMs and improve patient access to medications. We applaud the bipartisan efforts this committee has taken thus far to achieve this goal.

In conclusion, the ACAAI Advocacy Council expresses our deep appreciation for the Senate Committee on Finance's commitment to bolstering chronic care through Medicare physician reimbursement. Our recommendations span key areas, including reforming Medicare reimbursement, eliminating fees on electronic fee transfers (EFTs), and reigning in PBMs. We believe that these measures, if implemented, would go a long way in improving the care patients receive for their chronic conditions.

We look forward to working with the Committee to address these vital issues to ensure that allergy patients dealing with chronic conditions receive the care they deserve. Please do not hesitate to contact Matt Reiter (reiterm@capitolassociates.com) if you wish to discuss our recommendations further. Thank you for your consideration.

Sincerely,

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