American Society *of* Interventional Pain Physicians®
"The Voice of Interventional Pain Management"
81 Lakeview Drive, Paducah, KY 42001
Phone: (270) 554-9412 - Fax: (270) 554-5394
www.asipp.org

September 11, 2023

Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445–G
200 Independence Avenue, SW
Washington, DC 20201
chiquita.brooks-lasure@cms.hhs.gov

Re: CMS–1784–P. Medicare and Medicaid Programs; CY 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program

Dear Honorable Administrator Brooks-LaSure:

On behalf of the Board of Directors of the American Society of Interventional Pain Physicians (ASIPP), representing 49 state societies and the Puerto Rico Society of Interventional Pain Physicians, and in collaboration with our entire ASIPP membership, we extend our sincere gratitude for the opportunity to provide feedback on CMS-1784-P. This pertains to the proposed Medicare and Medicaid Programs for CY 2024 Payment Policies under the Physician Fee Schedule, along with other changes to Part B Payment and Coverage Policies. Additionally, we address aspects related to the Medicare Shared Savings Program Requirements, Medicare Advantage, Medicare and Medicaid Provider and Supplier Enrollment Policies, and the Basic Health Program.

BACKGROUND

ASIPP is a not-for-profit professional organization founded in 1998 now comprising over 4,500 interventional pain physicians and other practitioners who are dedicated to ensuring safe, appropriate and equal access to essential pain management services for patients across the country suffering with chronic and acute pain. There are approximately 8,500 appropriately trained and qualified physicians practicing interventional pain management in the United States. ASIPP is comprised of 48 state societies of Interventional Pain Physicians, including Puerto Rico and the affiliated Texas Pain Society.

Interventional pain management is defined as the discipline of medicine devoted to the diagnosis and treatment of pain related disorders principally with the application of interventional techniques in managing sub-acute, chronic, persistent, and intractable pain, independently or in conjunction with other modalities of treatment (The National Uniform Claims Committee. Specialty Designation for Interventional Pain Management- 09, www.cms.hhs.gov/transmittals/Downloads/r1779b3.pdf).

Interventional pain management techniques are minimally invasive procedures including, percutaneous precision needle placement, with placement of drugs in targeted areas or ablation of targeted nerves; and some surgical techniques such as laser or endoscopic diskectomy, intrathecal infusion pumps and spinal cord stimulators, for the diagnosis and management of chronic, persistent or intractable pain (Medicare Payment Advisory Commission. Report to the Congress: Paying for interventional pain services in ambulatory settings. Washington, DC: MedPAC. December. 2001. http://www.medpac.gov/documents/reports/december-2001-report-to-the-congress-paying-for-interventional-pain-services-in-ambulatory-settings.pdf?sfvrsn=0

We wish to express our appreciation to the Centers for Medicare & Medicaid Services (CMS) for their efforts in expanding telehealth services. In this context, we would like to offer our insights and comments on the following key areas:

1. Telehealth Services
2. Conversion Factor
3. Determination of Practice Expense (PE) Relative Value Units (RVUs)
4. Treatment of Opioid Use Disorder (OUD)
5. Electronic Prescribing of Controlled Substances (EPCS)
6. CY 2024 Medicare Physician Payment Schedule Updates to the Quality Payment Program (QPP)

We value this opportunity to collaborate with CMS to enhance healthcare accessibility, quality, and effectiveness for all patients. Your dedication to advancing these critical policies is greatly appreciated, and we look forward to contributing to the ongoing dialogue.

1. TELEHEALTH SERVICES

ASIPP firmly endorses CMS' proposals to maintain the coverage of telehealth services, extending them to patients nationwide and within their homes. We also advocate for the continuation of reimbursement for all Medicare telehealth services that were included in the coverage in 2022, including the CPT codes for audio-only telephone visits, up until the conclusion of 2024. Additionally, we implore the Administration to actively support legislation that would make Medicare telehealth policies a permanent fixture.

ASIPP requests that this limitation be removed in reference to incident-to-services and preoperative assessment limitations of audio services.

Recognizing the indispensable nature of these services in reaching elderly and rural populations without reliable internet access and considering the challenges patients face regarding in-person visits, particularly transportation-related issues, ASIPP urges the coverage under incident-to services and removal of restriction on preoperative assessments for audio services.

Furthermore, ASIPP supports the waiver of geographic and originating site requirements for Medicare telehealth services until the close of 2024. We strongly endorse the policy proposals set forth by the Centers for Medicare and Medicaid Services (CMS) and recommend their finalization. To enhance clarity and flexibility, we recommend reclassifying telehealth services from Category 1 to 3 designations and, instead, categorizing them as either permanent or provisional.

Numerous evaluations performed prospectively by reviewing the charts and through Twitter have shown an overwhelming satisfactory response to telehealth services. The user satisfaction has been extremely high. Consequently, it not only allows increased access to health services in remote settings, particularly important to the elderly, with availability of audio-only services. As it increases satisfaction, it reduces the

health care costs and improves communications. It also reduces multiple disadvantages related to face-to-face models, specifically during infectious disease times as COVID-19 seems to be increasing again.

2. CONVERSION FACTOR

The proposed reduction in the 2024 Medicare conversion factor by 3.36%, from $33.8872 to $32.7476, is a matter of concern within the medical community. These cuts are a result of several factors, including a -1.25% reduction in the temporary update to the conversion factor as per current law and a negative budget neutrality adjustment primarily stemming from the adoption of an office visit add-on code.

Unfortunately, these cuts are occurring at a time when the cost of running a medical practice is steadily increasing. The Centers for Medicare & Medicaid Services (CMS) projects a 4.5% increase in the Medicare Economic Index (MEI) for 2024. This rise in costs exacerbates the reductions proposed in payment rates, even though MEI typically lags behind the consumer price index (CPI).

This situation is challenging for physician practices, which cannot continue absorbing rising costs while their payment rates decline. Despite the mitigating efforts of the Consolidated Appropriations Act of 2023 by Congress, which reduced a planned 4.5% cut to Medicare physician payment rates to a 2% cut for that year and 2024, physicians now face an additional 1.25% reduction. This ongoing dilemma raises questions about how these practices can remain financially viable.

Examining the data published between 2001 and 2023 reveals a significant gap. The cost of running a medical practice has surged by 47%, equivalent to an annual increase of 1.8%, whereas physician payment rates have only increased by 9% over the last 22 years, averaging 0.4% annually. When accounting for inflation, Medicare physician payment rates have plummeted by 26% from 2001 to 2023, or roughly 1.3% annually.

Additionally, the impact of 2% annual sequester cuts, cannot be overlooked. Their extension by almost a decade for postponing them for 1 ½ years during COVID means that payment rates are effectively decreasing by over 3.5% annually, when adjusted for inflation.

An analysis by the American Medical Association (AMA) underscores the impact of these financial challenges on independent physicians. Inadequate payment rates are cited as the leading reason for physicians selling their practices to hospitals or health systems. With ambulatory surgery centers being reimbursed at only 52% of the hospital rate, physicians often feel compelled to accept any available deals with hospitals.

In light of these concerns, the American Society of Interventional Pain Physicians (ASIPP) recommends that CMS utilize every policy option at its disposal to mitigate the proposed 2024 physician payment cut.

3. DETERMINATION OF PRACTICE EXPENSE (PE) RELATIVE VALUE UNITS (RVUs)

In the 2023 final rule, CMS made revisions to the Medicare Economic Index (MEI) weights for various cost components, utilizing a new methodology primarily based on a subset of data extracted from the 2017 US Census Bureau's Service Annual Survey (SAS). This assessment revealed that the weight attributed to physician work remained relatively stable at around 60% between 1975 and 1992, dropped to 54.2% in 1993, and is currently set at 50.9%, with a potential further reduction to 47.3% in the updated calculations. This adjustment proportionally increases the practice expense component.

Simultaneously, the updated MEI also reduces the weight allocated to professional liability insurance (PLI), a reduction that may appear questionable considering the consistent rise in PLI premiums.

While there is commendation for the increased recognition of practice expenses and professional liability insurance costs, there is also deep concern over the continued reduction of the physician work component. Physicians receive payments based on this component, and these payments are on the free fall, particularly in hospital and equity partner settings. Further diminishing the value assigned to physician work would result in even lower payments for physicians, who typically receive only 30% of this value.

Under a budget-neutral scenario for the implementation of the MEI weight changes, it is projected that there would be an overall 7% reduction in physician work payments and a substantial decrease in professional liability insurance (PLI) payments, exacerbating the issue. Consequently, the weight assigned to non-physician compensation would experience a significant increase, rising from 16.6% to 24.7% within the new MEI framework. These substantial shifts primarily arise from a substantial oversight in the CMS analysis, which inadvertently excluded nearly 200,000 facility-based physicians from consideration.

In light of these concerns, the American Society of Interventional Pain Physicians (ASIPP) strongly endorses the CMS proposal to postpone the implementation of the new MEI relative value weights. ASIPP also vigorously urges CMS to rectify the substantial error in their updated MEI weights and advocates for the postponement of the implementation of these updated weights until after the American Medical Association (AMA) concludes its national study, aimed at gathering comprehensive data on physician practice expenses. This approach is essential to ensure that the MEI accurately reflects the real costs incurred by physicians in their practices.

4. TREATMENT OF OPIOID USE DISORDER

ASIPP members play a vital role in the treatment of opioid use disorder (OUD), actively contributing to its management.

ASIPP stands firmly behind the proposals aimed at extending the permission for opioid treatment programs (OTPs) to provide periodic assessments via audio-only technology until 2024. Additionally, we endorse the allocation of more resources to bolster psychotherapy services within the office-based OUD monthly bundled payments. Furthermore, we urge CMS to maintain reimbursement for OTPs providing take-home naloxone, whether it is for prescription or over-the-counter products.

These initiatives reflect ASIPP's commitment to improving OUD treatment and ensuring that individuals in need have access to comprehensive care, psychotherapy support, and life-saving measures like naloxone.

5. ELECTRONIC PRESCRIBING OF CONTROLLED SUBSTANCES (EPCS)

ASIPP members routinely prescribe controlled substances, and electronic prescribing is their preferred method.

Consequently, ASIPP endorses the proposal to maintain the existing compliance policy for the Medicare electronic prescribing of controlled substances program. This policy involves issuing a notice of non-compliance to prescribers, which has already been adopted by CMS as the method of addressing noncompliance through the 2024 measurement year. ASIPP supports continuing this approach as the means of addressing noncompliance in subsequent measurement years.

6. CY 2024 MEDICARE PHYSICIAN PAYMENT SCHEDULE UPDATES TO THE QUALITY PAYMENT PROGRAM (QPP)

It is increasingly evident that CMS's annual modifications to the MIPS program, coupled with its progressively stringent criteria and individualized measurement approach, hinder the ability to measure year-over-year progress effectively. This approach fails to provide practices with a meaningful opportunity to implement quality improvement strategies that can align their MIPS participation with other concurrent quality or certification programs. It seems that CMS is emphasizing reporting for mere compliance to secure payment incentives without establishing robust frameworks for genuine quality improvement.

Physicians, including ASIPP members, frequently express frustration with the program's continual changes, especially concerning the availability of measures and their associated benchmarks. This volatility makes it exceedingly challenging to monitor and participate effectively. Moreover, the program appears disconnected from clinical care pathways and lacks emphasis on promoting team-based care. The frequent shifting of program requirements further exacerbates the challenges, hindering the establishment of consistent quality improvement protocols.

ASIPP strongly urges CMS to introduce stability into the program, discontinue the practice of merging measures, and prioritize measures developed by clinical specialties. Additionally, we request CMS to consider adopting proposals from the American Medical Association (AMA) that support a sampling approach to meet data completeness requirements, offering a more practical alternative to the current stringent data completeness requirements.

Furthermore, we emphasize the critical need for CMS to review and revise its benchmarking scoring approach and methodology for quality and cost measures. This revision is essential to ensure a fair and accurate assessment of healthcare quality and costs within the MIPS program.

In summary, we kindly request the following actions:

1. **Preservation of Telephone-Only Services**: We advocate for the continuation of telephone-only services without restrictions on preassessment visits and granting them incident-to status. Moreover, we recommend considering a reclassification of these services as either provisional or permanent.
2. **Addressing Reduction in Conversion Factor**: We express deep concern about the reduction in the conversion factor, which results in negative payments for physicians when adjusted for inflation. Additionally, the addition of sequester cuts amounting to 2% annually compounds the issue, leading to a significant 3.5% reduction each year.
3. **Monitoring Medicare Economic Index (MEI) Rebasement**: We are apprehensive about the potential consequences of rebasing the Medicare Economic Index (MEI). This action could lead to substantial disparities in physician reimbursement and further exacerbate the challenges posed by hospital acquisitions and the disproportionate impact on equity partners.

We sincerely appreciate your consideration of our comments. These concerns align closely with the comprehensive and detailed feedback provided by the American Medical Association (AMA). Should you require further clarification or have any questions, please do not hesitate to reach out to us. Your attention to these matters is greatly valued.

Laxmaiah Manchikanti, MD
Chairman of the Board and Chief Executive Officer, ASIPP, SIPMS
Director, Pain Management Centers of America
Medical Director, Pain Management Centers of America – Paducah, Marion & Hopkinsville
Ambulatory Surgery Center and Pain Care Surgery Center
Clinical Professor, Anesthesiology and Perioperative Medicine
University of Louisville, Kentucky
Professor of Anesthesiology-Research
Department of Anesthesiology, School of Medicine
LSU Health Sciences Center
2831 Lone Oak Road
Paducah, KY 42003
270-554-8373 ext. 4101
drm@asipp.org

Salahadin Abdi, MD, PhD
President, ASIPP
Professor [Tenured] and Chairman
Department of Pain Medicine.
Helen Buchanan & Stanley Joseph Seeger Endowed Research Professor
The University of Texas, MD Anderson Cancer Center
1400 Holcombe Blvd, Unit 409
Houston, TX 77030
sabdi@mdanderson.org

Amol Soin, MD
Lifetime Director, ASIPP
President, SIPMS
CEO, Ohio Society of Interventional Pain Physicians
Ohio Pain Clinic
7076 Corporate Way, Suite 201
Centerville, OH 45459
drsoin@gmail.com

Mahendra Sanapati, MD
First Executive Vice President, ASIPP
Vice President, SIPMS
Director, Pain Management Centers of America
Medical Director, Pain Management Centers of America - Evansville
Medical Director, Advanced Ambulatory Surgery Center
Evansville, IN 47714
msanapati@gmail.com