



October 18, 2023

The Honorable Brett Guthrie
Chairman
House Committee on Energy and Commerce
Subcommittee on Health
2123 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
House Committee on Energy and Commerce
Subcommittee on Health
2123 Rayburn House Office Building
Washington, DC 20515

Re: MGMA comments – “What’s the Prognosis?: Examining Medicare Proposals to Improve Patient Access to Care & Minimize Red Tape for Doctors”

Dear Chairman Guthrie and Ranking Member Eshoo:

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) would like to thank the Subcommittee for the opportunity to provide feedback on these important issues and corresponding pieces of legislation. While MGMA is supportive of a fiscally responsible Medicare system that puts patients first, we remain concerned that current policies place unnecessary administrative burdens on medical groups, thus impacting access to care. We appreciate your leadership on this topic and thank you for holding this critical hearing, which will hopefully assist in making sensible improvements to Medicare payment policies and reducing regulatory burden.

With a membership of more than 60,000 medical practice administrators, executives, and leaders, MGMA represents more than 15,000 group medical practices ranging from small private medical practices to large national health systems representing more than 350,000 physicians. MGMA’s diverse membership uniquely situates us to offer the following policy recommendations.

In MGMA’s 2023 Annual Regulatory Burden Report, we surveyed over 350 medical groups and found that 90% of practices saw their overall regulatory burden increase over the past year. Ninety-seven percent of members said a reduction in regulatory burden would allow their practice to reallocate resources toward patient care. We appreciate the Subcommittee’s responsiveness to problems medical groups are facing as many of these bills will work to alleviate these burdens.

To that end, we urge the Subcommittee to work with its congressional colleagues to pass legislation to avert the Centers for Medicare & Medicaid Services’ (CMS’) proposed 3.36% cut to the conversion factor slated for 2024. A permanent solution is needed as the costs of running a medical practice continue to rise while Medicare physician payment effectively decreased by 26% from 2001 to 2023 when adjusted for inflation in practice costs.¹ MGMA supports the *Strengthening Medicare for Patients and Providers Act*, which would provide an annual Medicare physician payment update tied to inflation, as measured by the Medicare Economic Index (MEI). Addressing the proposed conversion

¹ American Medical Association, Medicare updates compared to inflation (2001 – 2023), <https://www.ama-assn.org/system/files/ama-medicare-gaps-chart-grassroots-insert.pdf>.

factor cut and providing sustainable reimbursement will allow medical groups to thrive and focus on providing high-quality care.

As we approach the end of the calendar year, we offer the following recommendations regarding specific bills in front of the Subcommittee that would support group practices moving into 2024.

The Provider Reimbursement Stability Act of 2023

In addition to no annual positive payment update, medical groups are experiencing annual reimbursement cuts stemming from 2021 Medicare Physician Fee Schedule (PFS) changes, the phase-in of the complexity add-on code (G2211), and correlating budget neutrality requirements. While MGMA appreciates Congress' intervention over the past three years to mitigate these payment cuts, we urge further action before the end of the year.

MGMA conducted a survey of 517 medical group practices, ranging from small practices to large 2,500 physician health systems, assessing the impact of potential Medicare payment cuts, and evaluating how physician practices would respond.² Practices would consider limiting the number of new Medicare patients, reducing charity care, reducing number of clinical staff, and closing satellite locations. Ninety two percent of medical groups responded that Medicare reimbursement in 2022 did not adequately cover the cost of care provided.

We are grateful that the Subcommittee is reviewing legislation to address one of the major factors contributing to reimbursement cuts to medical practices. Many of the provisions in the *Provider Reimbursement Stability Act of 2023* make improvements to budget neutrality requirements, such as increasing the triggering threshold from \$20 million and instituting new utilization review requirements to better reflect the reality of providers using certain services compared to CMS' estimates. **We urge the Subcommittee to continue to work to integrate changes to budget neutrality in conjunction with the long-needed annual inflationary update. These policies work in tandem to undermine the financial viability of medical practices, addressing them both would go a long way towards establishing an appropriate reimbursement system.**

The Improving Seniors' Timely Access to Care Act of 2023

MGMA thanks this Subcommittee for reviewing the *Improving Seniors' Timely Access to Care Act of 2023*. Previous versions of this commonsense legislation to alleviate prior authorization burden had widespread bipartisan, bicameral support with over 53 senators and 327 representatives cosponsoring the bill last year. It also had the support of over 500 organizations.

MGMA members consistently rank prior authorization requirements as their number one regulatory burden year after year. In our 2023 Annual Regulatory Burden Survey, 97% of members reported patients experiencing delays or denials for medically necessary care due to prior authorization requirements, and 89% stated prior authorization requirements were very or extremely burdensome. Forcing practices to divert critical resources away from clinical care to comply with these unnecessarily burdensome administrative processes is an impediment to an efficient healthcare system. **We appreciate the**

² MGMA, Impact of Payment Reductions to Medicare Rates in 2023, <https://www.mgma.com/getmedia/b0716bbf-d21f-4ead-b1cb-9371485e62ff/09-21-2022-Impact-of-Payment-Reductions-to-Medicare-Rates-in-2023-Full-Report.pdf.aspx>.

Subcommittee's including this legislation as part of the hearing and strongly urge Congress to pass this long-needed bill to help address this significant burden.

The Saving Access to Laboratory Services Act (SALSA)

MGMA supports the passage of the *Saving Access to Laboratory Act (SALSA)*. For years, MGMA has advocated for a robust clinical laboratory infrastructure to support the delivery of routine patient care. Despite these efforts, practices continue to face cuts to reimbursement rates for the most commonly ordered tests for Medicare beneficiaries. Without a sustainable solution to this problem, labs face a round of cuts of up to 15% in January 2024.

The enactment of SALSA would update Medicare's payment system to ensure clinical laboratory services are on a sustainable pathway forward. Without congressional action, the next round of Medicare cuts would drop reimbursement up to another 15% for about 800 laboratory tests widely used to screen and manage many serious diseases. It is essential that Congress protect patients by acting this year to pass SALSA and fix the Medicare payment model for clinical diagnostic tests.

The Fewer Burdens for Better Care Act of 2023

MGMA supports the passage of this legislation as it will add needed transparency and stakeholder input for quality measure adoption. MGMA continues to hear from members expressing confusion about how they are evaluated under certain measures in the Merit-based Incentive Payment System (MIPS). Eighty-three percent of practices in our 2023 Annual Regulatory Burden Survey did not find CMS' feedback on MIPS quality measures performance actionable in helping to improve clinical outcomes. This legislation would improve the pre-rulemaking process for quality measures by requiring CMS to publish measures under consideration for removal by Nov. 1, allowing stakeholder groups to provide feedback prior to the consensus-based entity convening for the endorsement process, and ensuring CMS provides a rationale for why they do not remove a measure that was requested by stakeholders.

To amend title XVIII of the Social Security Act to extend incentive payments for participation in eligible alternative payment models

Extending the Advanced Alternative Payment Model (APM) incentive payment and freezing the Qualifying Participant (QP) threshold are two important policies needed to continue the voluntary transition from fee-for-service to APMs. **We appreciate that this bill would extend the current APM incentive payment at 3.5%, and urge Congress to reinstate the previous incentive payment amount of 5%.** This payment is vital for groups to cover costs, support investments, and safeguard the financial viability of medical groups in the program. We strongly urge the Subcommittee to remove the provision in the draft text precluding QPs from receiving the APM incentive payment if they qualified in more than four other years.

We support the legislation freezing the Qualifying APM Participant (QP) threshold at the current levels. CMS has proposed to increase these levels in 2024, making it more difficult for clinicians to qualify. Seventy-six percent of practices anticipated that they would not achieve QP status for the 2023 performance year at the current threshold levels according to our recent Annual Regulatory Burden Report. Given CMS' goal of having every Medicare beneficiary in an accountable care arrangement by 2030, the agency should be incentivizing participation in APMs instead of making it more difficult. This legislation would provide a commonsense extension of current policy. We recommend the Subcommittee

review allowing CMS to set the QP threshold at reasonable levels moving forward similar to the *Value in Health Care Act of 2023*.

The Telehealth Privacy Act of 2023

We thank the Subcommittee for introducing this important bill that will allow practitioners to safely provide telehealth services from their homes without having to make their addresses public. During the COVID-19 public health emergency (PHE), CMS allowed practitioners to render telehealth services from their homes without reporting their home addresses on their Medicare enrollment forms and allowed billing from their currently enrolled location.

After the COVID-19 PHE ended on May 11, CMS continued its policy of allowing providers to continue listing their work address on their Medicare enrollment form while billing telehealth services from their home through Dec. 31, 2023. CMS did not include in its 2024 proposed Medicare PFS any policies addressing the status of providers reporting their home address when offering telehealth services from their homes.

This legislation is needed in order to appropriately balance protecting practitioners' need for privacy of their home address with program integrity concerns. Security for practitioners is paramount as their home addresses may be publicly available without this bill.

The Small, Underserved, and Rural Support (SURS) Extension Act of 2023

MGMA supports the passage of the SURS Extension Act of 2023. The SURS program provided essential support to practices attempting to comply with the complex and ever-changing MIPS program. CMS' proposed 2024 Medicare PFS included a table reviewing the number of clinicians projected to receive a negative MIPS adjustment after the agency's proposed increase of the MIPS performance threshold from 75 to 82. **A higher percentage of small practices and sole practitioners (64.6%) are projected to receive a negative MIPS payment adjustment, thereby exemplifying the punitive nature of the MIPS program on these practices and need for further support as provided in this bill.** The SURS program expired on Feb. 15, 2022, and this bill extending the program until 2029 will do a lot to help these practices build the infrastructure and knowledge needed to succeed.

Conclusion

MGMA thanks the Subcommittee for its leadership in examining legislation to improve the Medicare payment system and reduce burden for practices. We look forward to working with the Subcommittee and its colleagues to craft commonsense policies that will allow medical groups to continue providing high-quality patient care. If you have any questions, please contact James Haynes, Associate Director of Government Affairs, at jhaynes@mgma.org or 202-293-3450.

Sincerely,

/s/

Anders Gilberg
Senior Vice President, Government Affairs