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**November 4, 2022**

**CORRECTION:** This week's Washington Update mischaracterized a provision that CMS dropped from its final Physician Fee Schedule rule. Our original version said that, in the final rule, CMS opted not to proceed with allowing some participants in the Medicare Shared Savings Program to have up to 12 years of downside-only risk, as the agency had originally proposed. In fact, the original proposal was for 12 years of upside-only risk. APG regrets the error.

***Welcome to "Washington Update," the weekly e-newsletter on the latest health care happenings in the nation's capital that affect APG's members.***

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#### **Table of Contents**

- **APG-Backed Coalition Launches in Support of A-APM Bonus**
- **CMS Releases Physician Fee Schedule and MSSP Final Rule**

#### **Coalition Launches in Support of A-APM Bonus**

America's Physician Groups joined five other national organizations last week to launch the [Alliance for Value-Based Patient Care](#), a coalition to advocate for preserving and growing risk-based payment models. The first order of business is pressing for Congress to extend Medicare's 5 percent Advanced APM incentive payments, as clinicians' ability to earn those payments will otherwise expire at year-end 2022. The other Alliance members are the American Medical

Association, American Medical Group Association, Health Care Transformation Task Force, the National Association for Accountable Care Organizations, and Premier, Inc.

In addition to its website, the campaign will include targeted online ads to Congressional members and staff, [fact sheets](#) about the importance of the Advanced APM incentive payments, and answers to frequently asked questions about value-based care.

The coordinated campaign will help elevate the issue among a crowded field of legislative proposals that lawmakers are expected to consider in the lame-duck session following next week's elections.

### **CMS Physician Fee Schedule and MSSP Final Rule**

There was both welcome and unwelcome news in the [final rule](#) that CMS released earlier this week implementing changes to Medicare physician payment policies and the Medicare Shared Savings Program (MSSP). Among the welcome news were changes in the Medicare Shared Savings Program that will extend its appeal to more potential participants, as well as the extension of some pandemic-era flexibilities in telehealth. The unwelcome news heralds more negative pressure on Medicare physician payment rates unless policies are changed.

As policymakers scramble to decide the fate of the hundreds of temporary flexibilities that were implemented during the COVID-19 public health emergency (PHE), the new rule extends some but not others. CMS opted to let audio-only telehealth for all services other than behavioral health expire without addressing the equity concerns raised by APG and other stakeholders. CMS agreed with APG's recommendation to continue to allow telehealth services to be billed using the same place-of-service indicator that would be used if the service were provided in person through the end of 2023 or the PHE, whichever comes later.

CMS also finalized significant updates to MSSP designed to increase participation in the program and in particular participation in rural and underserved areas. These policies include paying advance shared savings to certain low revenue ACOs that are inexperienced with performance-based risk, which APG supported. Unfortunately, the amount of the advance shared savings is determined in part by the area deprivation index (ADI) that APG urged CMS to refine and test further before adopting.

Another policy will allow longer periods of time—up to 7 years—for ACOs to become accustomed to accountable care before being liable for downside risk. CMS opted not to proceed with the full 12 years of upside-only risk as proposed, about which APG had raised concerns. CMS established an alternative quality performance standard for ACOs by reinstating a sliding scale approach for determining shared savings, which APG strongly supported. The agency finalized the proposed health equity adjustment that will upwardly adjust quality performance scores for ACOs that are high performing and serve a high proportion of underserved beneficiaries.

Among the unwelcome news in the rule, the agency cut the physician fee schedule conversion factor for 2023 by about 4.4 percent, lowering it to \$33.06, a

decrease of \$1.55 from the 2022 conversion factor of \$34.61. The final conversion factor is slightly higher than the one CMS advanced in its July 2022 proposed rule. The lower conversion factor will have the effect of lowering physician payment overall. APG continues to work closely with Congress to avert this and other planned cuts that all together will reduce Medicare physician payment rates by 10.4 percent unless these policies are changed.

APG will hold a webinar soon to provide members with a deep dive on the policies that will change in 2023 based on the final rule. Please watch your email inbox for details.

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