TESTIMONY

of the

American Medical Association

before the

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Health

Re: Medicare Access and CHIP Reauthorization Act of 2015: Examining Physician Efforts to Prepare for Medicare Payment Reforms

Presented by: Barbara L. McAneny, MD

April 19, 2016

Division of Legislative Counsel
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The American Medical Association (AMA) applauds the Committee on Energy and Commerce Subcommittee on Health (Subcommittee) for its leading role in enacting the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). In passing this law, the Subcommittee and Congress recognized the problems with the broken system of reimbursement patches under the Sustainable Growth Rate (SGR) formula and provided clear direction to improve payment, streamline quality reporting, and promote health care delivery innovation. The AMA strongly supports the Subcommittee's current efforts to ensure the new law is a success for both patients and physicians. Moving forward, we now need to ensure that the forthcoming regulations from the Centers for Medicare & Medicaid Services (CMS) promote the smooth and successful implementation of MACRA in a manner that facilitates a strategic quality framework that supports innovation, improves care delivery for patients, and leads to more sustainable physician practices, as intended under the statute.

To ensure MACRA works for all stakeholders, we wish to highlight the following:

- The AMA believes MACRA provides an opportunity to improve current performance programs and increase the availability of alternative payment models (APMs).
- To assist in moving towards these goals, the AMA is taking an active role by developing practice tools, educating physicians, convening stakeholders, and providing feedback to agency officials.
- Successful implementation of MACRA will require rulemaking that will constructively 1) consolidate performance reporting; 2) broaden participation in APMs; and 3) improve measurement to reflect differences across medical practices.

MACRA Improvements and Opportunities for Innovation

As this Subcommittee well knows, on April 14, 2015, a large bipartisan majority in Congress passed MACRA, enacting significant changes to the Medicare physician payment system. The AMA strongly believes that the law creates improvements over the existing system. First, it permanently repeals the flawed SGR formula that threatened to cut Medicare payments for clinicians' services. This change alone allows more time and resources to be spent focusing on care rather than worrying about how to sustain practices. In its place, the law stabilizes payments for physicians over the next five years by providing annual .5 percent payment increases. It also reduces overall financial penalties physicians faced from the numerous quality reporting programs while providing for bonus incentives—for example, in 2019 physicians could have incurred a total financial penalty of eleven percent; under MACRA, the maximum penalty in 2019 is reduced to four percent.

The law also enacts a new Merit-Based Incentive Payment System (MIPS) that combines the requirements of the Physician Quality Reporting System (PQRS), the Value-Based Payment Modifier (VBM), and Medicare Meaningful Use (MU) Electronic Health Record (EHR) Incentive Program. By creating a single performance reporting program, the law provides an opportunity to reset and improve quality measurement as well as the other reporting requirements. Specifically, MIPS has the ability to streamline measures, reduce reporting burden, create flexibility to report on clinically relevant measures, encourage participation, and overall improve care.

MACRA not only improves the existing payment structure but also provides incentives to promote further innovation in the health care system. The law allows physicians who participate in qualifying APMs an exemption from the MIPS requirements, permitting them to establish new ways to coordinate care. The law further encourages these innovative approaches by providing financial support for APM participation, equal to five percent of the prior year's aggregate Medicare expenditures, to help manage the investment, risk, and other costs in more advanced models.

MACRA also creates a process to expand the APM options available to physicians. The law encourages new models, especially for specialists, which can be developed directly with practicing physician insight. To achieve broader input, MACRA created the Physician-Focused Payment Model Technical Advisory Committee (PTAC), a new independent advisory committee, which will specifically focus on and assess physician payment models. This provides a valuable opportunity for physicians to develop and submit their own ideas for APMs.

AMA Efforts to Support MACRA Implementation

1. <u>Outreach to Physicians</u>

To ensure physicians understand and can take advantage of the benefits of MACRA, the AMA is actively working to educate physicians and practices about the new law. Our market research with practicing physicians and practice administrators found that many physicians are unaware of the details of MACRA, how it will influence their practice and patients, and deadlines for the new requirements. Moreover, physician knowledge of the new law's

requirements varies, with some practices ready to move to APMs while others are still working to implement the existing quality reporting programs.

To improve outreach, the AMA is allocating significant resources for a comprehensive communication and education campaign and has created multiple resources for physicians to help guide them through the new law. This includes basic information for those with little understanding of the law, including detailed summaries and presentations that break down MACRA into plain language interpretations. The AMA has also created a tool to address state-by-state concerns. Using this information, physicians will be able to view the available delivery and payment models in each state, the funding benefits for the state's Medicare physicians, and the number of beneficiaries in each region that will be impacted by the new law. The AMA also maintains an extensive practice transformation platform, known as Steps Forward, which offers Continuing Medical Education (CME) training modules for physicians and their practice administrators on many issues related to MACRA, including EHR implementation and improving team-based care. At the end of April we will launch a new module on implementing value-based care and we will offer a CME webinar on this module in May. We also are developing a free payment model evaluator for physicians and practice managers to assess practice readiness, and provide implementation resources for MIPS and APMs. All of these resources are or will be available this summer at no cost on our AMA website.

The AMA is also a grantee of the CMS Transforming Clinical Practice Initiative (TCPI). As a Support and Alignment Network (SAN) Awardee, the AMA is promoting the goals of the TCPI to the TCPI network of clinicians through education about MACRA, CME, dissemination of best practices, promotion of clinical data registry use, and provision of tools and resources on APMs.

For more advanced practices, the AMA has developed numerous tools and resources to assist physicians in navigating APMs. Before MACRA was even enacted, the AMA, in June 2011, formed the Innovators Committee, an advisory group of physicians with hands-on experience in the development and management of innovative health care delivery and payment models. The Committee specifically focused on global budget and episode-based payments to help inform physicians of these models and how they can implement them within their practices.

In 2014, the AMA contracted with the RAND Corporation to take the first in-depth look at the impact that commercial APMs have on physician practices, their professional lives, and the delivery of patient care. This study specifically evaluated a broader array of models, including capitation, episode-based and bundled payment, shared savings, pay-for-performance, and retainer-based practices. Key findings from the study were that practice leaders are already changing organizational models in response to new payment models but that many physicians at the front lines need support and guidance to optimize the physician work under APMs. Addressing physician concerns about operational details of APMs could improve their effectiveness. Harmonizing key components of APMs across payers, especially performance measures, would enable physician practices to respond constructively. Physicians will also need enhanced access to data to succeed in alternative models.

Furthermore, the AMA has created a comprehensive guide to physician-focused APMs. This tool outlines the current barriers to adopting new models but seeks to overcome these challenges by highlighting the characteristics of successful APMs. It then walks through seven different models, describing the components and benefits, and listing examples of each

type of APM to outline these options for physicians so that they can evaluate them for their own practices. We believe this tool provides practical guidance and will assist different specialties in assessing models that can work for their patients.

2. Engagement with CMS and Other Stakeholders

The AMA is also working alongside CMS, specialties, states, and other stakeholders to ensure that MACRA is implemented in a manner that follows Congressional intent and supports a more efficient and high quality health care system. Specifically, the AMA has convened a taskforce of physician national medical specialties and state medical societies to build consensus on how best to implement the law's changes. The AMA has also established two technical workgroups, one focusing on MIPS and another on APMs, to examine specific issues related to each program. These workgroups have allowed physician representatives to openly engage in discussions and formulate proposals on how MACRA can and will work to improve care.

The AMA has also provided extensive feedback to CMS through numerous comment letters on specific aspects of MACRA implementation. These comments include how to define eligibility and the low-volume threshold for participation in MIPS, the scope of clinical practice activities, and the reporting mechanisms for each quality performance category, among others. In addition, the AMA has responded to CMS' requests for information that provided advice on the agency's proposal for a quality measure development plan and episode groups.

Furthermore, the AMA has hosted a number of listening sessions with CMS for different specialties and other stakeholders. Topics have addressed how to measure performance, the establishment of different episode groups, and specific concerns related to specialty practices. We plan to host future sessions, including one dedicated to how specialties can develop new APMs and an overview of the proposed rule once it is published.

Overall, the AMA is actively engaged in helping physicians navigate MACRA and is working to assist agency officials as it implements the law. The AMA will continue these efforts and add additional resources as CMS announces proposals related to MACRA and finalizes its regulations.

Necessary Steps to Ensure a Successful Implementation

In MACRA, Congress provided new authority to improve physician quality reporting and expand APMs. We are hopeful that CMS will seize this opportunity to implement these changes to ensure the law achieves its potential. To do so, the AMA has asked CMS to address key operational issues in its proposed rule to provide clarity for physicians and resolve existing barriers that prevent care improvements. The following provides a high-level overview of the issues we believe are necessary for CMS to address in its rulemaking; more detailed AMA guidance can be found in the numerous comment letters we have submitted to the agency.

1. Consolidating Performance Reporting

A key factor in medicine's support for MACRA was the law's promise to create a new MIPS program that, unlike the existing structure, establishes a single, coordinated approach to

performance reporting. Currently, physicians view measurement as burdensome, inaccurate, and often outdated. Reporting requirements are also extremely costly, with estimates finding that practices spend more than 700 hours per physician and more than $15.4 billion dollars to report quality measures.[1] The MU program, in its current form, remains particularly challenging due to technology that fails to perform as promised and measures that are beyond the control of physicians. Given that MU performance constitutes 25 percent of the overall MIPS score, it is vital that this program does not become a barrier to overall success under the new performance program.

The AMA believes MACRA provides CMS with the opportunity to significantly improve quality reporting rather than maintaining current requirements without major modifications. Specific issues we believe CMS should address with respect to MIPS include: moving away from a pass-fail program design to accommodate the needs of different practices, specialties, and patient populations; improving the timing of feedback reports; and minimizing unnecessary data collection and reporting burden. Ultimately, MIPS should streamline the number of reporting requirements while giving physicians reporting options to accommodate differences in specialty, site of service, type of practice, and patient mix. Also, as discussed in more detail later, the tools for measuring performance, particularly in the resource category, need significant improvement.

Already, CMS has been responsive to this concern with respect to the MU program, promising physicians needed changes to it. The agency has openly discussed its intent to make the MU program more flexible by customizing technology to individual practice needs, rewarding providers for outcomes rather than merely data entry, and taking action against data blocking practices.[2] We believe all of these steps must be accomplished to make MU work for physicians and patients. How soon CMS will implement these changes, whether it will significantly alter the other quality programs, and if these modifications avoid additional burdens on practices will further determine if MACRA policies will truly improve quality reporting.

2. Broadening APMs

With respect to APMs, the AMA believes success will depend on whether models are readily available for all practices. Physicians have already made significant progress in adopting and engaging in APMs—in 2011, no Medicare payments were made through APMs; by 2014, approximately 20 percent of payments were made through these arrangements.[3] Yet, these existing models may not provide real opportunities for all specialties and practices. MACRA regulations must provide a clear pathway for physicians to propose new models and ensure physicians in every specialty can participate.

To engage more physicians, we have urged CMS to expand APM options. MACRA regulations must establish a clear pathway for rapid approval and implementation of

[1] Lawrence P. Casalino et al. US Physician Practices Spend More Than $15.4 Billion Annually to Report Quality Measures. Health Affairs. March 2016. Available at http://content.healthaffairs.org/content/35/3/401.abstract

[2] Andy Slavitt and Karen DeSalvo. EHR Incentive Programs: Where We Go Next. January 19, 2016. Available at https://blog.cms.gov/2016/01/19/ehr-incentive-programs-where-we-go-next/

[3] Patrick Conway et al. Health Affairs. MACRA: New Opportunities for Medicare Providers Through Innovative Payment Systems. September 28, 2015. Available at http://healthaffairs.org/blog/2015/09/28/macra-new-opportunities-for-medicare-providers-through-innovative-payment-systems-3/

physician-focused APMs that establish different approaches to delivering patient care. CMS must avoid adding unnecessary and burdensome requirements to APMs that cause resources to be spent on administrative costs rather than helping patients. Physicians also need data and assistance from CMS to identify models that are appropriate and relevant to their practices.

Particularly in the early years of MACRA, we believe the agency should take an expansive definition of financial risk to promote broad physician participation in APMs. If CMS defines financial risk too narrowly, it will only recognize the most advanced practices and risks slowing momentum towards adopting new models. This term should therefore incorporate those physicians who demonstrate movement toward APMs, encouraging interest and better highlighting the benefits of working towards different payment models. In addition, the definition of nominal financial risk should recognize the significant up-front investments and ongoing costs that must be incurred by physicians who develop and implement these new models and not solely focus on shared savings and losses.

3. Improving Measurement

Another factor that must be addressed in the proposed MACRA rule is how to improve methods for measurement, especially attribution and resource use. Currently, PQRS and VBM do not appropriately take into consideration the numerous differences between practices. Often CMS simply uses hospital cost and outcome measures for physicians, ignoring the differences between these providers and the care setting in which they treat patients. We are also hopeful that CMS will develop more sophisticated risk adjustment measures that allow for more granular specialty comparisons, more accurate attribution methods across specialties, and better recognition of additional cost influencing factors, such as site of service. These changes are needed to eliminate flaws that have made practices with high risk patients more susceptible to penalties.

Furthermore, physicians need more timely feedback and data on their practices to successfully participate in both MIPS and APMs. Current reports often lag by more than two years, making this data unusable or irrelevant. Congress attempted to address this problem in MACRA by adding language that the performance period be "as close as possible" to the time payment adjustments are made. We have therefore urged CMS to make every effort to reduce the gap between the performance period and the payment year in order to provide more actionable and relevant data. We believe MIPS feedback reports must be readily accessible, correct, and actionable.

We greatly appreciate the Subcommittee's leading role in enacting MACRA given the law's potential to improve physician practices and patient care. The AMA remains committed to helping physicians and CMS understand and best implement MACRA to improve quality reporting and develop new APMs. We look forward to continuing to work with the Committee, Congress, patients, and regulators to ensure a successful start to the new MIPS and APM programs.