December 16, 2019

The Honorable Seema Verma  
Administrator  
Center for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 445-G  
200 Independence Avenue, SW  
Washington, D.C.  20201


Dear Administrator Verma:

On behalf of the more than 45,000 physician and medical student members of the California Medical Association (CMA), I am writing to inform you that based on the thorough and expert analysis of CMA members, Edward Bentley, MD and Larry DeGhetaldi, MD, the California geographic payments listed in the final rule for the Medicare Physician Fee Schedule are inaccurate and have resulted in a probable overpayment for 2020-2021. While we appreciate that CMS corrected the California and national Geographic Practice Cost Index (GPCI)-related errors that CMA identified in the proposed rule, there are new errors in the final rule. We urge CMS to make the appropriate corrections and notify physicians immediately.

CMA Analysis

According to our analysis of the final rule for the 2020 Physician Fee Schedule CaliforniaGPCIs, there are errors in the calculation related to the payment “floors” for the previous Locality 03 (Napa/Solano/Vallejo/Fairfield) and Locality 99 (Rest of California). CMA and our analysts have concluded the following:

The GPCIs for 2020 and 2021 published in Addendum E for Transition Counties in California are not consistent with our calculations of the CY 2020 Final GPCI County-Level Data File.xlsx for the California transition counties and the requirements of Section 220 (h) of the Protecting Access to Medicare Act of 2014.

Specifically, the Rest of California (previous Locality 99 before it was redefined in the law), and the Napa and Vallejo-Fairfield (previous Locality 03 before it was redefined in the law) GPCIs for 2020 and 2021 which correspond to the payment floor for Locality 99 and Locality 03 are overstated. It appears that the calculation of the former Locality 99 GPCIs probably included Santa Clara County which was not a component county of former Locality 99. Santa Clara County should not have been included in the calculation. Our calculations of former Locality 99 counties and Santa Clara County result in identical GPCIs published in the Final Rule Addendum E for Rest of California and transition counties with floor
GPCIs. Therefore, we believe that CMS should recalculate the Rest of California floor without Santa Clara County being mistakenly included in that calculation.

Likewise, a similar error occurred in the calculation of former Locality 03 GPCIs. The finalized Work GPCI for Locality 03 Counties Napa and Vallejo-Fairfield (Solano) published in Addendum E is higher for 2020 and 2021 than any of the work GPCIs of the Locality 03 Counties in the CY 2020 Final GPCI County Level Data File. This is not mathematically possible. The PE GPCI published for 2020 and 2021 is significantly higher than what we calculate from the data file. A higher GPCI county such as San Mateo or San Francisco was probably mistakenly included or interchanged in the GPCI calculations for Locality 03.

Since the GPCIs for the transition counties are calculated using a fractional component of the former Locality 99 and Locality 3 GPCIs (2/6 in 2020 and 1/6 in 2021 or the floor), all of the transition county GPCIs are also likely incorrect.

It appears, from our calculations, that if the GPCIs for former Locality 99 and Locality 03 (the floor) counties had been correctly calculated, then all of the transition county GPCIs would have been correct.

We recommend that CMS review the calculation of GPCIs for the former Locality 99 and Locality 03 in California with particular attention to the accuracy of the component counties. We believe that some counties were erroneously included in the calculations. If corrections are needed (as our calculations predict), we recommend that those be applied to the formulas for all transition counties in California.

**Impact of 2020 Errors on Future Physician Payment**

If CMS chooses not to make changes to the California GPCI payments in the 2020 final rule, CMA would expect CMS to provide assurances to California physicians that CMS will not recoup or impose payment reductions in 2022 and beyond because of the continued egregious errors made by the contractor and implemented by CMS. We also respectfully request that CMS make all source data available to the public as CMS has historically provided. This should include the data inputs that lead to county work GPCI inputs, and all components of the practice expense GPCIs – also at the county level. Such transparency would help CMA and other organizations when we are attempting to analyze the accuracy of proposed rules and it would help CMS avoid such errors in the future. Transparency of the data and the calculations are paramount to the accuracy of the Physician Fee Schedule.

**Contractor Status**

Finally, we strongly recommend that CMS engage a more competent contractor to perform the GPCI-related calculations in the future. Acumen, the previous contractor, accurately implemented the first several phases of the California payment locality transition. However, the new contractor has made multiple errors in the California, regional and national geographic payment calculations for 2020 and beyond.

**Meeting Request**

We recommend that CMS meet with CMA and our analytical experts, Drs. Bentley and DeGhetaldi, to review these errors. We also urge CMS to share any changes to the GPCIs published in the Final CY 2020 rule with CMA prior to amending the final rule so that we can review the calculations in a collaborative manner.
manner. However, CMS will need to engage our experts directly if any further analysis and review is needed. The CMA comments on the proposed rule are also attached. The CMA contact is Elizabeth McNeil, Vice President, Federal Government Relations, CMA at emcneil@cmdocs.org; 415 310 2877.

We urge CMS to correct the errors and corresponding payments as soon as possible and to give physicians adequate notification of the changes. We look forward to continue working with you to ensure the accuracy of the Medicare Physician Fee Schedule.

Sincerely,

Peter N. Bretan, MD
President

cc: Demetrious Kouzoukas
    Carol Blackford
    Ryan Howe
    Marge Watchhorn
    Gift Tee
    Ashby Wolfe, MD
    Neal Logue