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June 27, 2016

Andrew Slavitt  
Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Hubert H. Humphrey Building, Room 445-G  
200 Independence Avenue, SW  
Washington, D.C. 20201

RE: MACRA Proposed rule (CMS 5517-P)  
URGE LARGER EXEMPTIONS FOR SMALL PRACTICES

Dear Acting Administrator Slavitt:

On behalf of 10 state medical societies representing more than 180,000 physicians and medical students we are writing to offer constructive comments on the “Medicare Program: Merit-Based Incentive Payment System (MIPS)” published in the *Federal Register* on Monday, May 9, 2016 and its impact on small practices.

Many physician organizations were strong supporters of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). Eliminating the Sustainable Growth Rate (SGR) formula and reauthorizing the Children’s Health Insurance Program (CHIP) were critically important steps for our nation’s health care systems.

MACRA also promised to simplify and improve Medicare’s costly and complex reporting programs that purport to measure the quality of care our members provide to their patients. While CMS removed some measures and largely eliminated the pass/fail system, the MIPS program remains overly complex and burdensome. Compliance would be especially difficult for small practices who may end up with Medicare payment penalties even if they spend the time and money to jump through all the regulatory hoops. The budget-neutral system of bonuses and penalties annually anoints winners and losers regardless of how well practices “perform” on the MIPS standards. While we believe that amendments are needed by Congress to fix some aspects of this law, the overwhelming complexity of this proposed regulation is not what Congress intended when it passed MACRA.

Many of our coalition members will be sending or have sent our own detailed comment letters. As a group, however, we want to focus your attention on the devastating impact the proposed rules would have on solo practitioners, small practices, and physicians serving patients in health care professional shortage areas (HPSAs), all of whom have limited resources. **We strongly**

**urge CMS to exempt those physicians who have no possibility of earning more than it costs them to report under MIPS.**

The MACRA law was clear that there be accommodations and assistance for small practice physicians and physicians practicing in HPSAs. Yet the regulation provides little recognition of the challenges facing small practices. CMS proposed a “low-volume threshold” exemption that excludes physicians with less than 100 Medicare patients and \$10,000 in Medicare allowed charges billed. This proposal exempts only 10 percent of small practices. While there are other accommodations, they are minor. The Office of Management and Budget (OMB) chart in the proposed rule shows the vast majority of small practices will face penalties.

According to a recent *Health Affairs* article, physicians spent an average of 15 hours per week and more than \$40,000 annually to report on quality measures. This does not include implementation costs, EHR vendor add-on fees that can exceed \$25,000 per year, and highly variable costs for staff training and lost productivity associated with EHR use. Moreover, small practices do not enjoy the economies of scale afforded to larger groups. One of our organizations calculates the break-even point (based on a 4 percent penalty) at \$250,000 in Medicare allowed charges billed.

Because the cost of reporting is so high for small practices — and because of the real threat of penalties or inadequate bonus payments that do not cover the costs to report — few small practices can participate. The proposed low-volume threshold is not a meaningful exemption for small and rural practices.

**In conclusion, we strongly recommend that CMS significantly expand the permanent MIPS low-volume threshold exemption for small practice physicians and physicians located in HPSAs. This exemption would be voluntary for the physician. We also recommend that CMS provide a long-phase-in transition period for other small practices to comply.**

Our coalition — comprising the state medical societies in Arizona, California, Florida, Louisiana, Oklahoma, New Jersey, New York, North Carolina, South Carolina, and Texas — applauds your efforts to seek the input of the practicing physicians.

On behalf of our members and the millions of Americans they treat, we urgently request that you chart a different course of action. Small practices are the backbone of the Medicare program. If these regulations do not provide more relief from the regulatory morass, small practices will be harmed and there will be an access crisis for Medicare patients.

Sincerely,

Coalition of State Medical Societies

Arizona Medical Association  
California Medical Association  
Florida Medical Association  
Louisiana State Medical Society  
Medical Society of New Jersey

Medical Society of the State of New York  
North Carolina Medical Society  
Oklahoma State Medical Association  
South Carolina Medical Society  
Texas Medical Association