



MEMORANDUM

To: Subcommittee on Health Members and Staff
From: Committee on Energy and Commerce Majority Staff
Re: Health Subcommittee Hearing on October 19, 2023

The Subcommittee on Health will hold a hearing on Thursday, October 19, 2023, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building. The hearing is entitled “What’s the Prognosis?: Examining Medicare Proposals to Improve Patient Access to Care & Minimize Red Tape for Doctors.”

I. Witnesses

Panel I:

- **Dr. Meena Seshamani, MD, PhD**, Director, Center for Medicare, Centers for Medicare & Medicaid Services (CMS)
- **Ms. Leslie Gordon, MPP**, Director, Health Care, U.S. Government Accountability Office (GAO)
- **Mr. Paul Masi, MPP**, Executive Director, Medicare Payment Advisory Commission (MedPAC)

Panel II:

- **Dr. Steven Furr, MD, FAAFP**, President-Elect, American Academy of Family Physicians
- **Dr. Debra Patt, MD, PhD, MBA**, Executive Vice President, Texas Oncology
- **Mr. Joe Albanese, MPP**, Senior Policy Analyst, Paragon Health Institute
- **Dr. Matthew Fiedler, PhD**, Joseph A. Pechman Senior Fellow in Economic Studies, Brookings Schaeffer Initiative on Health Policy, The Brookings Institution

II. Background

This hearing will examine physician payment policies, including legislative solutions to increase beneficiary access to care. Specifically, the Committee will examine legislative policies to further the goals of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), which replaced the Sustainable Growth Rate (SGR) formula that had been used to determine Medicare payments to physicians but had consistently led to the threat of severe payment cuts.¹ MACRA introduced two payment tracks for clinicians:

¹ Kurt, (July 24, 2018),

<https://democratsenergycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Testimony-Ransohoff-%20HE-MACRA-and-MIPS-An-Update-on-the-Merit-based-Incentive-Payment-System-2018-07-26.pdf>. See Also: Medicare Physician Payment Reform After Two Years: Examining MACRA Implementation and the Road Ahead, The United States Senate Committee on Finance (May 8, 2019),

the Merit based Incentive Payment System (MIPS) and Advanced Alternative Payment Models (APMs).

- MIPS: MIPS combines parts of the Physician Quality Reporting System (PQRS), the Value-based Payment Modifier (VBM), and the Medicare Electronic Health Record (EHR) incentive program into one single program and provides physicians with a positive or negative payment adjustment based on various metrics.
- APMs: APMs are new approaches to paying for medical care through Medicare that are intended to incentivize quality and value.

III. Legislation

H.R. ___, To amend title XVIII of the Social Security Act with respect to the work geographic index for physician payments under the Medicare program

This discussion draft would extend for one year a policy to increase the work geographic index to 1.00 for any locality where the index would be less than 1.00, which is otherwise set to expire January 1, 2024.

H.R. ___, To amend title XVIII of the Social Security Act with respect to the work geographic index for physician payments under the Medicare program and to improve the accuracy of geographic adjustment factors under such program

This discussion draft would extend for one year a policy to increase the work geographic index to 1.00 for any locality where the index would be less than 1.00, which is otherwise set to expire January 1, 2024. The draft would include reforms to increase the accuracy of geographic data adjustment factors.

H.R. 2377, the Saving Access to Laboratory Services Act (Reps. Hudson and Kuster)

This legislation would require CMS to use statistical sampling of private-payer rates in establishing Medicare reimbursement amounts for widely available clinical diagnostic tests.

H.R. ___, To amend title XVIII of the Social Security Act to revise the phase-in of clinical laboratory test payment changes under the Medicare program

This discussion draft would delay until January 1, 2025, changes to how clinical laboratories are paid that otherwise would take effect January 1, 2024.

H.R. ___, To amend title XVIII of the Social Security Act to extend incentive payments for participation in eligible alternative payment models (Rep. Dunn)

This discussion draft would extend incentive payments for participation in eligible alternative payment models through 2026 and establish a 5-year cap on payment incentives for qualifying participants.

H.R. ___, the Improving Seniors Timely Access to Care Act of 2023 (Reps. Kelly, DelBene, Bucshon, and Bera)

This discussion draft would require Medicare Advantage plans with prior authorization requirements to establish an electronic prior authorization program that meets certain enrollee protection standards and transparency requirements.

H.R. 1352, the Increasing Access to Biosimilars Act of 2023 (Rep. Hudson)

This legislation would create a new pilot program to evaluate the benefits of providing additional shared savings payments to providers of biosimilars under Medicare.

H.R. ___, the Provider Reimbursement Stability Act of 2023

This discussion draft would increase the Physician Fee Schedule (PFS) budget neutrality threshold and provide for a lookback period to reconcile overestimates and underestimates of pricing adjustments for individual services. The draft also requires that the Secretary update prices and rates for direct cost inputs for practice expense (PE) relative value units (RVUs) which includes clinical wage rates, prices of medical supplies, and prices of equipment no less than every 5 years. Finally, the draft sets a limitation on year-to-year conversion factor (CF) variance.

H.R. 5526, the Seniors' Access to Critical Medications Act of 2023 (Reps. Harshbarger, Wasserman Schultz, and Davis)

This legislation would make permanent a waiver issued by CMS, allowing Medicare patients to receive medications by mail, and allowing family members or caregivers to obtain medications on a patient's behalf.

H.R. 1406, the Sustainable Cardiopulmonary Rehabilitation Services in the Home Act (Reps. Joyce and Peters)

This legislation would permanently allow cardiopulmonary rehabilitation services to be furnished via telehealth at a beneficiary's home under Medicare.

H.R. 2583, the Increasing Access to Quality Cardiac Rehabilitation Care Act of 2023 (Rep. Blunt Rochester)

This legislation would allow nurse practitioners, clinical nurse specialists, and physician assistants, to supervise and administer cardiac rehabilitation care programs under Medicare.

H.R. ___, To amend title XVIII of the Social Security Act to exempt certain practitioners from MIPS payment adjustments under the Medicare program based on participation in certain payment arrangements under Medicare Advantage (Reps. Miller-Meeks and Burgess)

This discussion draft would continue the policies in a CMS demonstration to exempt practitioners who participate in certain Medicare Advantage payment arrangements from MIPS reporting requirements and adjustments.

H.R. 4402, To amend title XI of the Social Security Act to clarify manufacturer transparency reporting requirements for certain transfers used for educational purposes (Reps. Burgess and Bera)

This legislation would clarify that manufacturers of a covered drug, device, biological, or medical supply, will not be required to submit information regarding educational materials that directly benefit patients and are intended for patient use, including peer-reviewed journals, journal reprints, medical conference reports, and medical textbooks.

H.R. 3674, the Providing Relief and Stability for Medicare Patients Act of 2023 (Reps. Bilirakis and Cardenas)

This legislation would increase the non-facility practice expense relative value units for specified services furnished under the Medicare program.

H.R. ___, To amend title XVIII of the Social Security Act to revise certain physician self-referral exemptions relating to physician-owned hospitals (Rep. Burgess)

This discussion draft would modify the physician self-referral exemptions related to Physician-Owned Hospitals (POHs) for certain rural hospitals that are located a certain distance from an existing hospital or critical access hospital.

H.R. ___, the Fewer Burdens for Better Care Act of 2023 (Reps. Moore and Bilirakis)

This discussion draft would require the Secretary of Health and Human Services to provide a 30-day public comment period for stakeholders to provide feedback on quality and efficiency measures that could be considered for removal.

H.R. 5395, the SURS Extension Act (Reps. Stansbury and Burgess)

This legislation would extend the Quality Payment Program-Small Practice, Underserved, and Rural Support program for fiscal years 2024-2029.

H.R. ___, To amend title XVIII of the Social Security Act to promote provider choice using real time benefit information (Rep. Arrington)

This discussion draft would clarify implementation of the Medicare Part D real-time benefit tools (RTBT) requirements by requiring prescription drug plan (PDP) sponsors provide patients real-time information related to formularies and benefit information (including cost and utilization management policies) within 1-year of enactment.

H.R. 5555, the DMEPOS Relief Act of 2023 (Reps. Miller-Meeks and Tonko)

This legislation would require the Secretary of Health and Human Services to provide certain adjustments to Medicare payment for items of durable medical equipment that were formerly included in round 2021 of the Durable Medical Equipment, Prosthetics/Orthotics and Supplies (DMEPOS) competitive bidding program.

H.R. 4104, the Preserving Patient Access to Home Infusion Act (Reps. Buchanan and Dingell)

This legislation would allow nurse practitioners and physician assistants to establish and review home infusion plans of care. The bill would also require CMS to pay home infusion providers for each day they administer drugs to patients.

H.R. 4878, the EMPOWER Act (Reps. Lesko and Kuster)

This legislation would remove direct supervision requirements for physical therapy assistants and occupational therapy assistants and require the U.S. Government Accountability Office (GAO) to analyze how the Medicare part B 15% payment differential for services provided by occupational therapy assistants and physical therapy assistants has impacted access to physical and occupational therapy services.

H.R. ____, the Telehealth Privacy Act of 2023 (Reps. Balderson, Dunn, and Schweikert)

This discussion draft would prohibit the Secretary of Health and Human Services from making a physician's or practitioner's address of residence publicly available if they elect to provide telehealth services from that address.

H.R. ____, To amend title XVIII of the Social Security Act to allow for the use of alternative measures of performance under the Merit-based Incentive Payment System under the Medicare program (Rep. Bucshon)

This discussion draft would allow MIPS reporting flexibility for physicians who perform the majority of their work in a facility-based setting by allowing physicians to choose to use quality or value-based program measures used under their respective sites of care.

IV. Staff Contacts

If you have questions regarding this hearing, please contact Caitlin Wilson or Corey Ensslin of the Committee staff at 202-225-3641.