

July 29, 2024

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 445–G  
200 Independence Avenue, SW  
Washington, DC 20201

Re: Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023 (CMS–1799–P)

Dear Administrator Brooks-LaSure:

On behalf of the 12 undersigned organizations, thank you for your leadership in ensuring that accountable care organizations (ACOs) are held harmless from anomalous Medicare spending outside their control. ACOs and their participant clinicians, hospitals, and other healthcare providers need predictable and stable approaches when being held accountable for costs and quality. Addressing the anomalous spending will help keep participants in the models, continuing progress on CMS's goal of having all Medicare patients in an accountable care relationship by 2030.

We urge you to finalize the proposed rule, Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023 (CMS–1799–P) and apply similar policies for the ACO REACH model and all impacted alternative payment models. The rule would hold ACOs harmless from anomalous billing for catheters experienced in 2023. We also appreciate that the agency has proposed permanent policies that will address future instances of anomalous billing in the 2025 Medicare Physician Fee Schedule proposed rule. Collectively, these policies address many of our [recommendations](#).

We ask that you also examine if additional codes should be considered for mitigation in 2023. Many ACOs have reported significant increase in billing for skin substitutes, with Medicare payments rising from \$1.3 billion in 2022 to \$3.9 billion in 2023. Similar to the catheters, this will detrimentally impact ACO savings unless accounted for by CMS.

We look forward to continuing to work together on long-term solutions to address significant, anomalous, and highly suspect expenditures. There are opportunities to improve how ACOs report fraud, as well as to better educate ACOs on the processes CMS and the HHS OIG undertake to investigate fraud. As the HHS OIG has previously noted, ACOs are excellent sources to uncover potential fraud, waste, and abuse by identifying patterns of unusual billing. The HHS OIG noted that CMS should provide a heightened level of attention to ACO referrals. The undersigned organizations and ACOs are willing partners in promoting program integrity.

Thank you for your continued leadership in supporting the movement to value-based care, we appreciate your consideration of our concerns.

Sincerely,

America's Physician Groups  
American Hospital Association  
American Medical Association  
Health Care Transformation Task Force  
National Association of ACOs  
Premier, Inc.  
Accountable for Health  
American Academy of Family Physicians  
Association of American Medical Colleges  
Federation of American Hospitals  
Medical Group Management Association  
National Rural Health Association