

October 2, 2017

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Frank Pallone  
Ranking Member  
Committee on Energy and Commerce  
2322A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walden and Ranking Member Pallone:

The undersigned state and national specialty medical organizations share a common interest in ensuring successful implementation of the Medicare Access and CHIP Reauthorization Act (MACRA). Since the enactment of MACRA, we have worked closely with policymakers and the Centers for Medicare & Medicaid Services (CMS) to ensure that implementation of the law reflects the intent of Congress to focus payment on improving quality and value and that physician practices are able to successfully participate.

Thanks to statutory provisions designed to provide necessary flexibility during implementation, CMS has been able to ensure that practices can participate from the outset and increase their engagement over time as physicians and other clinicians become more accustomed to the new reporting requirements and CMS finalizes cost measures, improves data feedback, and provides tools to improve performance and help providers succeed. In order to continue the progress made to date, we believe that there are several specific adjustments that will require statutory changes or clarification before CMS is required to publish proposed rules for the program's third year of operation.

Several provisions of MACRA have been particularly helpful in ensuring successful implementation thus far. The first, at 1848(q)(5)(E) has allowed CMS to proceed with implementation despite the fact that resource use (cost) measures necessary under the Merit-based Incentive Payment System (MIPS) are still under development. This provision allows the Secretary, for the first two years of the MIPS program, to weight the resource use component at not more than ten percent for the first year and not more than 15 percent for the second year. Given the state of readiness of resource use measures, CMS used this flexibility in the final rule for 2017 and weighted this component at zero percent. For 2018, CMS has again proposed to weight this component at zero percent. This action in no way is meant to diminish the commitment of CMS or the physician community to incorporating resource use as an integral component of performance measurement. It is instead an acknowledgement that work remains to be done to ensure that these new measures are developed and integrated in a way that accurately reflects the complexities of cost measurement and does not inadvertently discourage clinicians from caring for high-risk and medically complex patients, as was the case under the value-based modifier.

A second provision critical to the successful implementation of MACRA is the flexibility provided at 1848(q)(6)(D) that allows the Secretary to select a performance threshold during the first two years other than the "mean or median" standard. Gradually increasing the performance threshold gives physicians the opportunity to implement necessary practice changes as they gain experience. It also ensures that the performance threshold is not set too high, which could discourage participation or negatively impact practices with fewer resources.

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Unfortunately, both of these provisions expire after the second year of the MIPS program, and CMS will be required by statute to implement a “mean or median” performance threshold and count resource use measures for a full 30 percent of the performance score, regardless of the readiness of those measures or their applicability to a particular practice. CMS will be required to propose these changes in the next proposed rule, which is due in the spring of next year.

We believe that CMS will be more successful in achieving Congress’s intent to focus payment systems on improving quality and value if some elements of the current flexibility provided for in statute are extended for an additional three years. To be clear, we are not proposing to prevent CMS from implementing resource use measurement or a higher performance threshold if they believe that moving forward with these elements is appropriate. Rather, **we are proposing to continue the existing flexibility in the MACRA statute that CMS is currently using for an additional three years so that the agency may move forward as the necessary program elements are put in place.**

Additionally, we would call to your attention a number of other provisions of MACRA which we believe should be tweaked to improve the overall program implementation without altering Congressional intent. Modifications are needed to: clarify that Medicare Part B drugs and other items and services outside the physician fee schedule are not included in the application of MIPS payment adjustments and determination of MIPS eligibility; rationalize what is considered a “small practice; and explicitly authorize the Physician-focused Payment Model Technical Advisory Committee (PTAC) to provide technical assistance to developers of Advanced Payment Models. We do not believe that these elements are being implemented in a manner consistent with Congressional intent and some technical changes in the legislative language are likely required.

We appreciate your attention to these issues and look forward to working with you and your colleagues to ensure the implementation of MACRA continues to be successful.

Sincerely,

American Medical Association  
Academy of Physicians in Clinical Research  
Advocacy Council of the American College of Allergy, Asthma and Immunology  
AMDA – The Society for Post-Acute and Long-Term Care Medicine  
American Academy of Allergy, Asthma and Immunology  
American Academy of Dermatology Association  
American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Family Physicians  
American Academy of Home Care Medicine  
American Academy of Hospice and Palliative Medicine  
American Academy of Ophthalmology  
American Academy of Otolaryngology—Head and Neck Surgery  
American Academy of Pain Medicine  
American Academy of Physical Medicine and Rehabilitation  
American Academy of Sleep Medicine  
American Association of Child & Adolescent Psychiatry

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American Association of Clinical Endocrinologists  
American Association of Neurological Surgeons  
American Association of Neuromuscular & Electrodiagnostic Medicine  
American Association of Orthopaedic Surgeons  
American College of Cardiology  
American College of Emergency Physicians  
American College of Gastroenterology  
American College of Osteopathic Surgeons  
American College of Phlebology  
American College of Physicians  
American College of Radiology  
American College of Rheumatology  
American College of Surgeons  
American Congress of Obstetricians and Gynecologists  
American Gastroenterological Association  
American Geriatrics Society  
American Orthopaedic Foot & Ankle Society  
American Osteopathic Association  
American Psychiatric Association  
American Society for Clinical Pathology  
American Society for Gastrointestinal Endoscopy  
American Society for Radiation Oncology  
American Society for Surgery of the Hand  
American Society of Anesthesiologists  
American Society of Cataract and Refractive Surgery  
American Society of Clinical Oncology  
American Society of Dermatopathology  
American Society of Echocardiography  
American Society of Hematology  
American Society of Nuclear Cardiology  
American Society of Plastic Surgeons  
American Society of Retina Specialists  
American Urogynecologic Society  
American Urological Association  
Association of American Medical Colleges  
College of American Pathologists  
Congress of Neurological Surgeons  
Heart Rhythm Society  
Infectious Diseases Society of America  
International Society for the Advancement of Spine Surgery  
Medical Group Management Association  
National Association of Medical Examiners  
National Association of Spine Specialists  
Renal Physicians Association  
Society for Vascular Surgery  
Society of Cardiovascular Computed Tomography  
Society of Critical Care Medicine  
Society of Gynecologic Oncology  
Society of Nuclear Medicine and Molecular Imaging

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Society of Thoracic Surgeons  
Spine Intervention Society  
The Endocrine Society

Medical Association of the State of Alabama  
Alaska State Medical Association  
Arizona Medical Association  
Arkansas Medical Society  
California Medical Association  
Colorado Medical Society  
Connecticut State Medical Society  
Medical Society of Delaware  
Medical Society of the District of Columbia  
Florida Medical Association Inc.  
Medical Association of Georgia  
Hawaii Medical Association  
Idaho Medical Association  
Illinois State Medical Society  
Indiana State Medical Association  
Iowa Medical Society  
Kansas Medical Society  
Kentucky Medical Association  
Louisiana State Medical Society  
Maine Medical Association  
MedChi, The Maryland State Medical Society  
Massachusetts Medical Society  
Michigan State Medical Society  
Minnesota Medical Association  
Mississippi State Medical Association  
Missouri State Medical Association  
Montana Medical Association  
Nebraska Medical Association  
Nevada State Medical Association  
New Hampshire Medical Society  
Medical Society of New Jersey  
New Mexico Medical Society  
Medical Society of the State of New York  
North Carolina Medical Society  
North Dakota Medical Association  
Ohio State Medical Association  
Oklahoma State Medical Association  
Oregon Medical Association  
Pennsylvania Medical Society  
Rhode Island Medical Society  
South Carolina Medical Association  
South Dakota State Medical Association  
Tennessee Medical Association  
Texas Medical Association  
Utah Medical Association

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Vermont Medical Society  
Medical Society of Virginia  
Washington State Medical Association  
West Virginia State Medical Association  
Wisconsin Medical Society  
Wyoming Medical Society