



June 3, 2021

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Ms. Brooks-LaSure:

The Cognitive Care Alliance (CCA) congratulates you on your confirmation to lead the Centers for Medicare & Medicaid Services (CMS) and appreciates your commitment to improving the health and well-being of all Americans, particularly as our country faces the COVID-19 pandemic.

CCA members, representing over 60,000 physicians from seven cognitive specialty societies, including general internal medicine, endocrinology, infectious diseases, gastroenterology, hematology, hepatology, and rheumatology, manage the chronic conditions that affect most Medicare beneficiaries. As a coalition representing practicing internal medicine subspecialists, we primarily provide evaluation and management (E/M) services to our patients.

Last year, CMS finalized the first significant payment improvements for outpatient E/M services beginning with the calendar year (CY) 2021 Medicare Physician Fee Schedule (MPFS) since the implementation of the Resource-based Relative Value Scale (RBRVS) in 1992. The longstanding underpricing of cognitive physician services within the MPFS has led to a skewed workforce and has impaired access, not just to primary care services, but also to a full range of medical specialty services that are important to all patients. The changes being implemented in 2021 are an important first step to ensuring that the definitions and valuations of all E/M services are accurate and reliable.

However, more must be done to ensure the MPFS is a reliable resource for developing the future of health care delivery. This is particularly important as the COVID-19 pandemic has created unintended health consequences, such as untreated hypertension, unmanaged diabetes, obesity, depression, and opioid dependency. The MPFS is responsible for determining the pricing of professional health care services delivered through Medicare, Medicare Advantage, Innovation Center demonstrations, and the Medicare value-based payment programs. It remains axiomatic that the definitions of services, the relative values within the RBRVS paradigm, and the documentation expectations must be precise, transparent, and based on the best evidence available.

The principal architect of the RBRVS, Dr. William Hsiao from Harvard University, clearly stated that the development of the E/M portion of the MPFS was not adequately supported and that more refinement

was needed from the very start of the RBRVS three decades ago.<sup>1</sup> CCA members have been united in the belief that all of the existing E/M code families, outpatient as well as inpatient, do not accurately describe the non-procedural work delivered to patients. While we are appreciative of the recent changes finalized by CMS, we believe that the agency must continue this important work and address the accuracy of E/M service code families, most notably the inpatient E/M family, as well as taking a closer look at the work required to deliver comprehensive E/M care for those patients with multiple chronic conditions.

To address the processes by which the entire set of E/M codes are defined, documented, and valued, the CCA has recommended that CMS establish an expert panel. We envision the panel will be charged with developing an evidence-based approach to assess how the current E/M service codes are defined and valued within the RBRVS paradigm and whether documentation expectations can be developed to ensure effective communication and reduce clinician burden. Moreover, the expert panel would help to identify gaps in data and inadequacies in the processes CMS currently employs. If warranted, the expert panel may propose solutions and recommend changes that may be made to the E/M code set to ensure the valuations of these codes reflect current medical practice. Should the panel be successful, we believe CMS will be armed with the necessary data and information to describe non-procedural work that is part of ongoing evaluation and management.

The panel is meant to inform the work of CMS, and is not intended to eliminate or exclude existing processes by which professional societies participate in the AMA's RVS Update Committee (RUC). We believe the panel will help CMS better balance the two types of physician work of MPFS services—those that are procedurally intense and those that are cognitively intense. We have included our expert panel proposal in Appendix A for your convenience.

Furthermore, the CCA has supported CMS' actions to expand telehealth services for providers and their patients during the public health emergency. The flexibilities implemented by the agency have secured patient access to care, while preventing unnecessary exposure to COVID-19. Specifically, our patients have greatly benefited from our ability to deliver E/M services by audio-only connections. The flexibility to use all possible connection options to maintain clinically vital connections to patient in quarantine has been transformative. In many cases, particularly with Medicare patients, our members have encountered circumstances where patients are unable to establish a simultaneous audio/video connection due to barriers such as lack of access to broadband connection or appropriate communications devices capable of establishing a simultaneous audio/visual connection. Additionally, some patients are unable to navigate the technology required for audio/video visits. For these reasons, we believe it is critical for the agency to maintain coverage of these services either as non-face-to-face services or a form of telehealth once the public health emergency concludes and welcome the opportunity to work with you to accomplish this goal.

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<sup>1</sup> Hsiao WC, Braun P, Dunn D, Becker ER, DeNicola M, Ketcham TR. Results and policy implications of the resource-based relative-value study. *N Engl J Med*. 1988 Sep 29;319(13):881-8. doi: 10.1056/NEJM198809293191330. [https://www.researchgate.net/publication/20109840\\_Results\\_and\\_Policy\\_Implications\\_of\\_the\\_Resource-Based\\_Relative-Value\\_Study](https://www.researchgate.net/publication/20109840_Results_and_Policy_Implications_of_the_Resource-Based_Relative-Value_Study)

The Alliance has consistently encouraged CMS to implement evidence-based payment policy, and we encourage CMS to closely review the data collected on the expanded use of telehealth (audio only and audio/video) during the pandemic to inform and develop a model to ensure the accuracy and reliability of all E/M services within the MPFS.

Thank you for the opportunity to share our expertise on these important issues. We have had productive conversations about these issues with agency staff and look forward to discussing them with you as well; we will be following up to request a meeting on these topics to protect patient access to health care services and ensure our nation is supported by a robust health care workforce. Please direct any questions to Erika Miller, Executive Director of the Cognitive Care Alliance, at [emiller@dc-crd.com](mailto:emiller@dc-crd.com) or (202) 484-1100.

Sincerely,

A handwritten signature in black ink, appearing to read "John Goodson", followed by a stylized flourish.

John Goodson, MD  
Chair

**Cognitive Care Alliance Member Organizations:**

American Association of the Study of Liver Diseases  
American Gastroenterological Association  
American Society of Hematology  
Coalition of State Rheumatology Organizations  
Endocrine Society  
Infectious Diseases Society of America  
Society of General Internal Medicine

## Appendix A

### Proposal to Form an Expert Panel to Review Evaluation and Management Services

#### **Request:**

The Cognitive Care Alliance (CCA), representing over 60,000 physicians from seven cognitively focused specialty societies, proposes that the Centers for Medicare & Medicaid Services (CMS) convene an expert panel to develop recommendations on how to appropriately define, document, and value evaluation and management (E/M) services.

#### **Background/ Statement of Need:**

The CCA thanks CMS for finalizing significant changes to the outpatient E/M services in the CY 2020 Medicare Physician Fee Schedule (MPFS) that will become effective January 1, 2021. We believe these changes are an important first step to appropriately value cognitive work and should be implemented as finalized. The deficiencies in the E/M coding structure and values have resulted in cognitive workforce shortages and limited Medicare beneficiary access to certain primary care and cognitive services. The principle architect of the Resource-Based Relative Value Scale (RBRVS), Dr. William Hsiao from Harvard University, clearly stated that the development of the E/M portion of the MPFS was not adequately supported and that more refinement was needed.<sup>2</sup>

Changes to the outpatient E/M services are being implemented at a time when the practice of medicine looks significantly different than it did when the RBRVS was established. Now CMS spends approximately \$100 billion on MPFS services. Forty percent of that spending is on E/M services - the outpatient E/M services account for 27 percent of MPFS spending. Since the late 1980s, the methodologies of health services research have evolved, the principles of representative databases have been firmly established, methods of adjustment to reflect the influences of health, social, economic, geographic and other factors are more robust, and the unintended consequences of the existing pricing mechanisms have become more clear.<sup>3</sup> All of these factors provide CMS with new tools to value cognitive work.

CMS' revisions to the outpatient E/M services have been lauded by the member societies of the CCA and by most of the medical community, yet our societies continue to express concern that these changes do not address the legacy mis-valuation of E/M services. Most importantly, the agency must sustain its commitment to fully understand the resources and work required to deliver cognitive E/M services in both outpatient and inpatient settings, including the expertise demanded to manage the "complexity density" of each encounter, and to accurately define and value service codes that capture current medical practice.

The CCA has called on CMS to conduct research to better understand the components, inputs, interactions, outputs, and implications for all E/M services. We propose that CMS create an expert panel with the express purpose of establishing a permanent mechanism to ensure that the relative valuation of physician services is data driven and reflects the current practices of medicine to achieve the best possible outcomes for all Medicare beneficiaries. Again, this panel would not delay or change the E/M payment

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<sup>2</sup> Hsiao, WC, Braun, P, Dunn DL et al. Med Care 1992;30 (11) Supplement: NS1-NS12.

<sup>3</sup> Goodson JD. Unintended consequences of resource-based relative value scale reimbursement. JAMA. 2007; 298(19): 2308-10.

reforms finalized in the CY 2020 MPFS. Rather, this panel would assist CMS to ensure that cognitive work is accurately defined and valued under the MPFS.

### **Proposed Panel Charge, Responsibilities and Composition:**

#### **Charge**

Using an evidence-based approach, the panel will assess the current definitions, documentation expectations and valuations of existing E/M services and develop a set of recommended changes to address identified data gaps and/or inadequacies.

#### **Responsibilities**

- *Evaluate and summarize* the current data and research related to E/M services.
- *Review* the current methodologies and procedures used to define and value services under the MPFS.
- *Identify* the specific knowledge gaps including parameters for additional data needs and research required to study key topics and answer key questions, including:
  - Does the existing E/M code set adequately define and describe the full range of E/M services?
  - If adequate, are the current values for E/M services appropriate? Are the gradations of valuation aligned with the gradations of service intensity?
    - Do they appropriately account for all input elements that contribute to the intensity of work valuation, including the development and maintenance of cognitive expertise, the complexity of the clinically relevant interactions among individual patient characteristics, diagnoses and therapeutics, and the risks and implications that arise from different levels of encounter intensity?
    - Are the existing code definitions clear and accurate? If so, then code definitions should be reviewed to ensure linkage to definable auditing metrics.
  - If inadequate, what changes to the E/M service codes or additional codes are needed to address the possible deficiencies noted above?
  - Collaborate with the Office of the National Coordinator for Health Information Technology (HIT) to ensure that documentation requirements are easily integrated in the electronic health record (EHR).
  - Consider and research the development of guidelines for the future relative valuation of physician services. Propose a process whereby CMS can ensure that the MPFS is based on accurate and updated service code definitions, including service code times, and a reliable process of relative valuation based on data collected from patients, physicians, enterprises, and institutions.
    - Assess the utility of data describing E/M services from current resources, including the National Ambulatory Medical Care Survey (NAMCS), the Medical Expenditure Panel Survey (MEPS), de-identified Medicare payment data, and de-identified electronic health record data sources.

- ***Develop*** new valuation concepts, if warranted, to capture the breadth and value of E/M services and determine how these can be best integrated in with existing RBRVS.
- ***Recommend*** changes, if warranted, that should be made to the current E/M code set to ensure the valuations of these codes reflect current medical practice.
- ***Oversee the development of and provide input for*** any new E/M services including:
  - service descriptions,
  - billing and coding guidelines, and
  - program integrity requirements

### **Panel Composition**

To ensure diverse perspectives are factored into the development and refinement of E/M services, membership should include:

- Clinicians, such as general practice and specialty medicine physicians, and other qualified health professionals;
- Medicare Beneficiaries;
- Health economists and health services researchers.
- Experts in medical coding and code valuation;
- Health informatics experts;
- Experts in program integrity and compliance;
- Stakeholders with expertise in Medicare payment policy.

### **Cognitive Care Alliance Member Organizations:**

American Association of the Study of Liver Diseases

American Gastroenterological Association

American Society of Hematology

Coalition of State Rheumatology Organizations

Endocrine Society

Infectious Diseases Society of America

Society of General Internal Medicine