EDPMA 25 YEARS

Emergency Care

Protecting Emergency Care in the United States

The Emergency Department Practice Management Association (EDPMA) is the nation's only professional physician trade association focused on the delivery of high-quality, cost-effective care in the emergency department. EDPMA's membership includes emergency medicine physician groups of all ownership models and sizes, as well as billing, coding, and other professional support organizations that assist healthcare providers in our nation's emergency departments. Together, EDPMA's members deliver (or directly support) health care for about half of the 146 million patients that visit U.S. emergency departments each year.

EDPMA is eager to work with the 118th Congress to solve the most pressing problems facing emergency medicine, two of which are described below. If you have questions or would like additional information, contact EDPMA's Executive Director, Cathey Wise, at cathey.wise@edpma.org.

No Surprises Act

On December 27, 2020, the No Surprises Act (NSA) was enacted as part of the Consolidated Appropriations Act, 2021 (Public Law 116-260). The law was intended to protect patients from surprise bills for out-of-network services, while giving medical providers and insurance companies an independent dispute resolution (IDR) process to settle disputes over payment amounts for these services. EDPMA wholeheartedly supports the goal of protecting patients from unexpected expenses for needed medical care.

Unfortunately, implementation of the statute has been chaotic, provided limited opportunity for public input, and led to a dysfunctional IDR process where disputes have been logjammed, seriously impacting cash flow for physician practices and undermining our nation's emergency care safety net. Most recently, the federal agencies tasked with implementing the NSA instituted a sudden sevenfold increase in the administrative fees that providers must pay to make use of the IDR process, putting in place a barrier that effectively prevents use of the IDR process.

One of the most detrimental aspects of NSA implementation centers on the "Qualifying Payment Amount" (QPA), which was established and defined by the statute as the median of a health plan's contracted rates for a particular item or service by insurance market and in a particular geographic area. The NSA further specified that a plan's QPA should reflect the median contracted rates for a provider in the same or similar specialty as the billing practitioner. Moreover, the statute relies on the QPA for only two purposes: (1) for defining patient cost-sharing protections when no state law governs; and (2) as one of the criteria for arbiters to consider in disputes eligible for federal IDR.

However, EDPMA members have found that the insurers' QPAs do not reflect market-based, contracted rates. Worse still, health plans are relying on these flawed QPAs beyond the two purposes contemplated by the statute, including to pay providers at the QPA amount even though the statute sets no payment benchmark. The issues resulting from this are compounded by consistent health plan failures to actually pay the amounts owed in the timeframes specified in law and regulation, after a payment determination is made by IDR arbiters.

Medicare Physician Fee Schedule

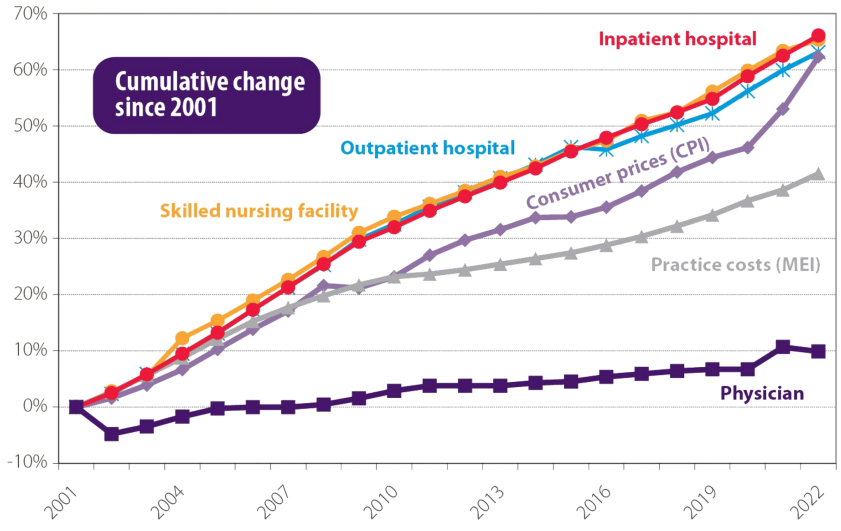
The Medicare Physician Fee Schedule (MPFS) governs reimbursement for Medicare providers. In recent years, the MPFS has faced the prospect of large annual reductions due to statutorily-defined budget neutrality requirements. Congress partially averted these cuts for 2021, 2022, 2023, and – to a very small extent – 2024, though it is likely that additional relief will be needed for next year. These recurring reimbursement cuts demonstrate the need to examine the systemic problems in the Medicare physician payment system that fail to provide stability and are unrelated to the cost of providing patient care. Additionally, the MPFS is already subject to a 2% recurring annual cut due to Medicare sequestration.

Other Medicare providers receive annual payment updates based on an inflation proxy. In stark contrast, physician payments have long been subject to nominal updates not tied to actual increases in physician costs, no positive updates at all, or, in certain years, a payment cut. This has resulted in physician reimbursement lagging far behind that of other Medicare providers, as well as all inflation metrics:

Medicare updates compared to inflation (2001–2022)

Adjusted for inflation in practice costs, Medicare physician payment declined 22% from 2001 to 2022.

AMA AMERICAN MEDICAL ASSOCIATION



Sources: Federal Register, Medicare Trustees' Reports and U.S. Bureau of Labor Statistics, American Medical Association, Economic and Health Policy Research, September 2022.

EDPMA 25 YEARS

Protecting Emergency Care

The No Surprises Act and the Medicare Physician Fee Schedule

Medicare provider updates for 2023

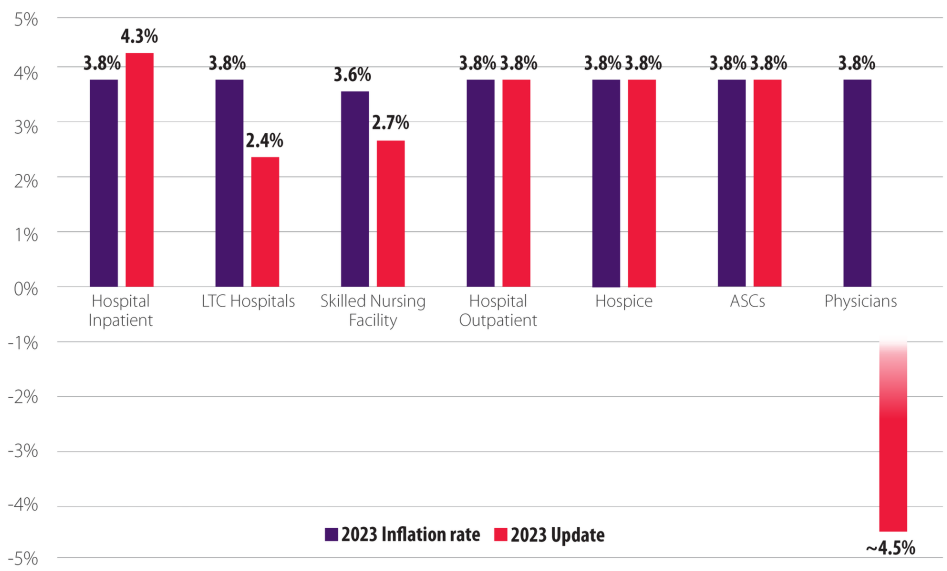
Note: Rate increases for Medicare Advantage plans are estimated to have an "effective growth rate" of 4.88%, with an "expected average change in revenue" of 8.5%.

Hospital inpatient, LTC hospitals, SNFs, hospice, hospital outpatient and ASC inflation rates reflect market basket less a productivity adjustment.

Physician fee schedule inflation rate is the Medicare Economic Index, which has a productivity adjustment.

Potential adjustments for quality performance omitted for all provider types.

AMA AMERICAN MEDICAL ASSOCIATION



Compounding underpayment for emergency providers is the fact that emergency departments are federally mandated by the Emergency Medical Treatment and Labor Act (EMTALA) to provide care to everyone, no matter the patient's ability to pay.

Emergency physicians continue to provide this EMTALA-mandated care, but they have far fewer tools at their disposal to remain solvent: continued annual Medicare payment reductions and lack of any inflationary update have left emergency medicine practices less able than ever before to absorb the financial impact of the uncompensated care they are legally required to furnish.

Protecting Emergency Care

The combination of *No Surprises Act* implementation issues and Medicare reimbursement challenges causes a significant risk to the healthcare safety net, risking care quality and access.These risks are particularly evident in rural and underserved areas of the US. We urge the Congress to ensure stable, consistent reimbursement across all markets, so that our nation's emergency response system can continue to provide high-quality care to all patients.

Contact **Cathey Wise** 703-506-3282 cathey.wise@edpma.org

edpma.org