



October 5, 2020

The Honorable Seema Verma, MPH, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8016  
Baltimore, MD 21244-8016

RE: CMS-1734-P

Dear Administrator Verma:

The International Chiropractors Association (ICA) provides the following response to the Center for Medicare & Medicaid Services proposed final rule CMS-1734-P regarding Calendar Year 2021 Changes to Physician's Fee Schedule as published in the Federal Register on August 17, 2020.

The ICA has grave concerns about the proposed rule which are outlined herein. We urge the rejection of the rule as proposed given its unequal treatment of doctors of chiropractic which will result in a 19% decrease in compensation. We further request CMS create parity in the compensation by increasing the RVUs for spinal manipulation to address the E/M components of that service while implementing the stated purpose of the rule. The ICA calls for a rejection of decreases for the specific CPT codes 98940, 98941, and 98942.

Among other actions, the proposed rule if enacted as drafted would reduce the relative value units (RVUs) and its corresponding conversion factor for spinal manipulation. Unlike medical doctors and doctors of osteopathy - other physician providers in Medicare (42 U.S.C. 1395x(r)), doctors of chiropractic are not able to seek reimbursement for other standard of care services provided to Medicare beneficiaries in the course of normal care such as exams and x-rays. Furthermore, doctors of chiropractic continue to be the only physician-level provider whose patients are not given the same freedom to private contract as patients of physician level providers, and even this long-standing barrier to access for seniors and other Medicare beneficiaries is an issue ICA has been seeking to see rectified as a part of system wide integration of all credentialed health providers in our federal health programs. ICA brings this up in this response because given the limitation of codes available to chiropractors, any reduction in fees places additional burdens on the doctor of chiropractic.

Most chiropractors in the United States are small business owners, not part of corporate health systems or hospital-based practices. The suggested cuts in the physician fee schedule for spinal manipulation are draconian. The combined impact of reductions to the work RVU (-7%) and the practice expense RVU (-3%) for chiropractors will mean a total decrease of 10%.



This is significant on its own, however, for chiropractors the reduced compensation is compounded because of the lack of payment through Medicare for E/M codes. The combined effect of reduced RVUs, reduced conversion factor and lack of payment for E/M codes results in an actual payment decrease of over 19%. Even without the economic challenges created by COVID-19, this is an extraordinary burden that most providers will be challenged to absorb. It also shows a lack of parity between compensation of the non-drug professions.

Overall, the proposed rule has far reaching and negative effect on the ability of all Essential Health Care Workers, chiropractors included, to recover from forced closures and limitations to practice during the global COVID-19 pandemic.

As you may know in some states there were forced closures and other limitations to operations of health care offices including chiropractors. This resulted in a total loss of income for many and a dramatic reduction in income for some of 70% or more for several months. The negative effects of this are still being felt and will take years for the health system to recovery. If implemented as proposed, these drastic reductions will negatively affect the ability of Medicare beneficiaries across the nation to access needed non-drug services.

The ICA understands there is a statutory requirement for CMS to re-evaluate RVUs and seek to maintain budget neutrality. We call for a more reasoned and balanced approach from CMS to provide a level of parity in reimbursements while seeking budget neutrality. If implemented, the rule will increase the disparity between physician level providers compensation, not decrease it, given the restrictions on codes for doctors of chiropractic. We specifically request no decrease for CPT codes 98940, 98941, and 98942. While doctors of medicine and doctors of osteopathy are paid for E/M codes and will see increases in reimbursement due to increases in RVUS with these codes, doctors of chiropractic will not, but will be burdened with a reduction in compensation. Given that CMS is proposing to reduce the RVUs and the conversion factor for spinal manipulation codes, the only codes Medicare reimburses for chiropractors, impact to Medicare beneficiaries and their chiropractic providers creates a significant disparity in the treatment of the profession and those who seek its non-drug approach to care. ICA requests instead that CMS address the disparity and increase the RVUs for spinal manipulation to address the E/M components.

The ICA agrees with the concerns raised by our colleagues at ChiroCongress in their submission to CMS:

*“Because chiropractors are not paid by Medicare for E/M codes, under the proposed rule they suffer a double decrease with no opportunity to offset these reductions with increases in the E/M code values. The reduced*



*RVUs combined with the reduced conversion factor results in an actual payment decrease of over 19%, a crippling decrease that most providers can hardly absorb under normal circumstances, much less during the current pandemic-related economic downturn. Moreover, under the CPT and CMS guidelines, elements of E/M codes are considered to be included within the spinal manipulation service. In fact, chiropractors must perform pre- and post-manipulation services that mirror elements of E/M services. The proposed new rule wholly ignores that E/M services are included in the spinal manipulation codes and that they are required for reimbursement of these codes. The decrease in RVUs for 9894x codes, despite the code's inclusion of E/M elements, patently contradicts the stated purpose of the rule to accurately value E/M services. As unique users of spinal manipulation codes 9894x, chiropractors will thus undergo drastic, unjustifiable reimbursement decreases, while other practitioners who are separately reimbursed for E/M codes will experience increases."*

As we continue the national battle to overcome the opioid addiction crisis and reduce addiction and deaths related to it, this significant reduced compensation in Medicare for doctors of chiropractic should be rejected. Chiropractic care is a tremendous tool for opioid avoidance which continues to be under-utilized in the federal response to the opioid epidemic as well as a tremendous benefit for health overall. The ICA is providing below a small sampling of existing data showing the benefit and cost savings opportunity to Medicare, underscoring a capacity eliminate the disparity in compensation for doctors of chiropractic when compared to doctors of medicine and doctors of osteopathy and continue to have budget neutrality.

### **Evidence-Informed Decision Making Supports the Utilization of Chiropractic**

- Adding chiropractic care to usual medical care was associated with improved outcomes at a reasonable cost in a sample of complex patients with sub-acute and chronic back pain.[1]
- Chronic spinal pain is one of the most common health challenges in the United states. Because underserved patients do not have access to other therapies, they disproportionately may use opioid medications. A prospective observational pilot study at a community health center to measure the effectiveness of two interventions among an underserved population: a multidisciplinary pain team and chiropractic care was conducted. Participants in the chiropractic team were found to have significantly greater improvement at follow-up.[2]
- A 2019 Study in Medicaid in Missouri found, "Using a dynamic scoring model to incorporate savings from 3 primary sources, we found that (1) chiropractic care provides better outcomes at lower cost, (2) chiropractic treatment and care leads to a reduction in cost of spinal surgery, and (3) chiropractic care leads to cost savings from reduced use and abuse of opioid prescription drugs."[3]



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- The doctor of chiropractic as the primary care provider resulted in a 52% reduction in pharmaceutical costs, 43% decrease in hospital admissions, and 43% fewer outpatient surgeries and procedures. This was the finding in a four-year study begun in 1999 of DCs in a primary care role in a large Chicago HMO.[4]
- A 2020 Study comparing costs between doctors of chiropractic and physical therapists (PT) found the total average cost in the chiropractic group was \$48.56 lower than the PT group; the daily adjusted life years (DALY) in the chiropractic group was 0.0043 higher; and that chiropractic care was shown to be a cost-effective alternative compared with PT for adults with at least three weeks of LBP over six months.[5]
- A recent study in Canada found that adding chiropractic care to usual medical care was associated with improved outcomes at a reasonable cost in a sample of complex patients with sub-acute and chronic back pain.[6]
- Twenty-five percent reduction in backpain related costs associated when chiropractic was utilized as well as lower overall total annual health care costs. These were the findings in a 4-year retrospective review of claims from 1.7 million health plan members in an HMO insurance plan.[7]
- A 2001 analysis of chiropractic utilization cost savings in Medicare found a lower overall payment for Medicare Services -\$4,426 versus \$8103.[8]
- A study in the Ontario health System (Canada) indicated that greater chiropractic coverage would result in increased visits, but also net savings in both direct and indirect costs for Ontario's health system between \$380 and 770 million. [9]A 1997 review of health insurance payments and patient utilization episodes for common lumbar and low back conditions in over 6,100 patients who first visited doctors of chiropractic or medical doctors. Chiropractic care was more satisfying and 50 % lower costs (\$518 versus \$1020). [10]
- A 2011 comparison of provider types and management costs for complicated and uncomplicated low back pain for North Carolina teacher and state employees found that while there were more provider claims for doctors of chiropractic that the cost was 30 to 50 % less than either physical therapist or medical doctors.[11]
- Workman's Compensation data in a 2003 Texas analysis: The lower back injury claims cost average is \$15,884. The claim costs average decreases to \$12,202 when the worker receives at least 75% of their care from a doctor of chiropractic. When 90% of the care is provided by a chiropractor, the average cost declines to \$7,632. [12]
- In a 2002 Florida analysis of workers' compensation claims from 1994-1999 found that the average total cost for low-back cases treated medically was \$16,998 while chiropractic care was only \$7,309. Patients treated primarily by chiropractors were found to reach maximum improvement almost 28 days sooner that if treated by a medical doctor.[13]



The ICA calls respectfully requests that the agency rethink its approach to physician fee schedule changes to create more fairness through compensation parity; we request that CMS eliminate the 19% reduction in compensation for doctors of chiropractic. ICA also suggests that CMS consider a moratorium on any reductions in compensation in Medicare for any profession while the nation's health care providers continue to provide care during a global pandemic.

The CMS Calendar Year 2021 Changes to Physician's Fee Schedule proposed rule is draconian, undermines the nation's response to the opioid addiction crisis, and increases rather than decreases the disparity in the federal treatment of integrative health professionals such as doctors of chiropractic.

**About the ICA:** The International Chiropractors Association (ICA) was founded in 1926 and is dedicated to the growth and development of the chiropractic profession based on an enduring commitment to professional and clinical excellence and, the fundamental principle of chiropractic as a unique, separate, distinct, and drugless health care profession. ICA was founded by Dr. B.J. Palmer. The ICA is the world's oldest, continually operating international chiropractic professional organization representing practitioners, students, chiropractic assistants, educators, and lay persons world-wide.

Sincerely,

Stephen P. Welsh, DC, FICA  
President





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