

June 9, 2023

**VIA REGULATIONS.GOV FILING**

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS 1785-P  
P.O. Box 8013  
Baltimore, MD 21244-8013

**RE: 2024 Medicare Inpatient Prospective Payment System Proposed Rule**

The American Association of Hip and Knee Surgeons (AAHKS) appreciates the opportunity to submit comments to the Centers for Medicare & Medicaid Services (CMS) on its hospital inpatient proposed payment systems (IPPS) proposed rule for fiscal year 2024 (hereinafter referred to as “FY 2024 IPPS proposed rule” or “proposed rule”).

AAHKS is the foremost national specialty organization of more than 4,600 physicians with expertise in total joint arthroplasty (TJA) procedures. Many of our members conduct research in this area and are experts on the evidence-based medicine issues associated with the risks and benefits of treatments for patients suffering from lower extremity joint conditions. AAHKS is guided by four principles:

- Payment reform is most effective when physician-led;
- Reductions in physician reimbursement by public and private payers drives provider consolidation;
- The burden of excessive physician reporting on metrics detracts from care; and
- Patient access, especially for high-risk patients, and physician incentives must remain a focus.

Our comments on the FY 2024 IPPS Proposed Rule are as follows:

**I. Proposed Changes to Medicare Severity Diagnosis-Related Group (MS-DRG) Classifications and Relative Weights – IPPS Arthroplasty Rate Increases Highlight Disparity in Medicare Physician Reimbursement – (Sec. II)**

CMS proposes to increase the relative weight of one of the four primary MS-DRGs associated with lower joint arthroplasty.<sup>1</sup> CMS proposes minor reductions in the relative weight

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<sup>1</sup> Major Hip and Knee Joint Replacement or Reattachment of Lower Extremity with MCC (469); Major joint replacement or reattachment of the lower extremity (470); Hip replacement with Principal Diagnosis of Hip Fracture with MCC (521); Hip replacement with Principal Diagnosis of Hip Fracture (522).

of two of the procedures. Combined with proposed increases in the national standardized amount, on which DRGs are calculated to derive payment amount, this leads to increases in Medicare payment rates for three of the four arthroplasty codes:<sup>2</sup>

MS-DRG	FY 2023		FY 2024 (Proposed)		% Change from 2023
	Weight	Rate	Weight	Rate	
469	3.2314	\$20,602.57	3.3607	\$21,928.37	+6.4%
470	1.9119	\$12,189.78	1.9001	\$12,398.04	+1.7%
521	3.0192	\$19,249.63	3.0016	\$19,585.26	+1.7%
522	2.1729	\$13,853.85	2.1234	\$13,855.06	same

AAHKS generally supports increased payment rates to facilities for arthroplasty due to the extreme complexity of the procedure, innovations in the standard of care and outcomes, and to recognize increased costs for labor and supplies remaining from the COVID-19 pandemic. Nevertheless, the ongoing annual increases in Medicare facility payments for arthroplasty present a stark contrast with severely decreasing payments for arthroplasty under the Medicare Physician Fee Schedule (PFS). Medicare payments for the professional component of arthroplasty have been cut by 9% since 2017.

It is a challenging proposition for policy makers to ask that physicians carry the burden of Medicare expenditure reductions while hospital payments continue to increase, especially given the fact that the physician fee accounts for less than 6% of the overall episode of care cost. Reduced reimbursement prevents surgeons from sustaining independent practices, which may lead to mergers and consolidation. Consolidation leads to fewer choices for consumers across the care continuum, higher prices, and decreased access to care, particularly in rural and underserved areas. Reduced reimbursement for THA/TKA also leads to surgeons shifting their focus to other procedures and conditions for which they have trained, despite the accelerating need for joint replacement in the Medicare age eligible population.

While payments under the IPPS and PFS may be calculated according to separate statutory formulas, CMS and Congress should be alarmed at the divergent trends in facility and surgeon reimbursement for arthroplasty. We have commented previously that CMS should explicitly state whether it believes Medicare beneficiaries and the health care system are best served by rapidly increasing reimbursement rates to facilities for arthroplasty paired with severe cuts to the professional services for those procedures, and if so, why. In light of President Biden’s *Executive Order on Promoting Competition in the American Economy*<sup>3</sup>, CMS should evaluate whether its proposed reductions in Medicare physician rates promote competition in health care or facilitate consolidation.

Because of these concerns, AAHKS is optimistic for the future passage of H.R. 3284, the *Providers and Payers COMPETE Act of 2023*, which recently was reported out of the House Committee on Energy & Commerce by a vote of 49-0. HR 3284 would require the Secretary of

<sup>2</sup> These calculations assume national standardized amount for a hospital with a 67.3% labor share, participating as an EHR Meaningful User and a wage index greater than 1.0.

<sup>3</sup> EO 14036 (July 9, 2021).

the Department of Health and Human Services (HHS) to assess and report to Congress on the impact of any Medicare reimbursement or regulatory changes on consolidation of healthcare providers and payers. Such reporting is an important step to better inform Congress and CMS on how not to exacerbate health industry consolidation through Medicare payment rates.

**II. Inflation Adjustment: Proposed Changes in the Inpatient Hospital Update for FY 2024 – (Sec. V.B.1)**

CMS proposes a net 2.8% payment rate increase for general acute care hospitals paid under the IPPS that successfully participate in the Hospital Inpatient Quality Reporting (IQR) Program and are meaningful electronic health record (EHR) users—reflecting the projected hospital market basket update of 3.0% reduced by a 0.2% productivity adjustment.

Given measurably high inflation and increased costs for labor, equipment, drugs and supplies, the proposed market basket update does not reflect the actual costs faced by facilities. In FY 2022, CMS finalized a market basket payment update of 2.7% based on data that did not anticipate or incorporate the record high inflation and significant increases in the costs of labor, drugs and supplies. Additionally, with more recent data available, the actual market basket update for 2022 should have been 5.7%, a 3.0% variance from the CMS estimates.

The proposed FY 2024 market basket payment update would severely exacerbate this problem and does not properly recognize the high financial pressures that hospitals currently face. As a matter of principle, AAHKS believes all Medicare payment systems for providers and facilities, and especially physicians, should be annually updated to account for real increases in cost inputs experienced in the real world. Currently, Medicare payment systems vary significantly in the degree to which annual payment increases correspond with inflation, if they do at all. Focused reform, including for physician payment, is needed on this topic. For the purposes of this proposed rule, AAHKS supports a higher market basket payment update under the IPPS to reflect the actual effects of inflation on hospital operating costs. AAHKS endorses an annual inflation-based payment update based on the full Medicare Economic Index (MEI) which has been recommended by MedPac.

**III. Hospital Value-Based Purchasing (VBP) Program: Proposed Substantive Measure Updates to the Hospital-Level Risk-Standardized Complication Rate (RSCR) Following Elective Primary Total Hip Arthroplasty (THA) and/or Total Knee Arthroplasty (TKA) (CBE #1550) Measure Beginning With the FY 2030 Program Year – (Sec. V.K.2.c.(2))**

CMS proposes to adopt a modified version of the "Hospital-level Risk-Standardized Complication Rate (RSCR) Following Elective Primary Total Hip Arthroplasty (THA) and/or Total Knee Arthroplasty (TKA) (CBE #1550)" (the "THA/TKA Complication") measure under the Clinical Outcomes Domain of the Hospital VBP Program beginning in program year 2030. Specifically, CMS proposes to include index admission diagnoses and in-hospital comorbidity data from Medicare Part A claims as part of the THA/TKA Complication measure, which would expand the

measure outcome to include 26 additional mechanical complication ICD-10 codes to capture certain diagnoses. These include:

- fracture following insertion of orthopedic implant;
- joint prosthesis, or bone plate of the pelvis, femur tibia, or fibula; and
- periprosthetic fracture around internal prosthetic hip, hip joint, knee, knee joint and other or unspecified internal prosthetic joint

We endorse the inclusion of the 26 additional mechanical complication ICD-10 codes THA/TKA Complication measure. These complication codes are clinically appropriate to be paired with arthroplasty and will improve the measure's accuracy. Last year, we endorsed the addition of these same 26 additional codes to the Hospital Inpatient Quality Reporting (IQR) Program's THA/TKA Complication measure.

**IV. Hospital Inpatient Quality Reporting (IQR) Program: Proposed Removal of Hospital-Level Risk-Standardized Complication Rate Following Elective Primary Total Hip Arthroplasty and/or Total Knee Arthroplasty Measure Beginning With the FY 2030 Payment Determination (Sec. IX.C.7.a)**

CMS proposes to remove the revised THA/TKA Complication measure from the IQR program if CMS finalizes its proposal to add the same measure to the VBP program. CMS would remove the measure beginning with the April 1, 2025, through March 31, 2028 reporting period associated with the FY 2030 payment determination.

AAHKS supports CMS' proposed removal of this measure from the IQR program as duplicative of measures in the VBP program. We agree that the cost associated with calculating and reporting the same measure twice under two separate quality programs outweigh the benefit of the measure's continued use in the IQR program.


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AAHKS appreciates your consideration of our comments. If you have any questions, you can reach Mike Zarski at [mzarski@aahks.org](mailto:mzarski@aahks.org) or Joshua Kerr at [jkerr@aahks.org](mailto:jkerr@aahks.org).

Sincerely,



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