Memo

To: CHIME Membership
From: CHIME Public Policy
Re: Summary of House Committee on Energy & Commerce, Health Subcommittee Hearing – MACRA and MIPS: An Update on the Merit-based Incentive Payment System – July 26, 2018

Takeaways:

- Although MACRA is not perfect and is in need of many technical changes, it is far better than either the previous Sustainable Growth Rate (SGR) in place or a complete scrapping of MIPS for an all new program.
- There was a consensus that CMS has allowed too many loopholes that leads to about 58% of physicians not participating in MIPS, which contributes to the ineffectiveness of the program.
- Congress will continue to work with CMS in order to dutifully implement MACRA in the way it was intended to be implemented. Essentially, the work is not over.

Witnesses:

- Dr. David Barbe – Immediate Past President, American Medical Association
- Dr. Frank Opelka – Medical Director of Quality and Health Policy, American College of Surgeons
- Dr. Parag Parekh – Chair, Government Relations Committee, American Society of Cataract and Refractive Surgery
- Dr. Ashok Rai – Chairman of the Board, American Medical Group Association
- Dr. Kurt Ransohoff – Chairman of the Board, America's Physicians Groups

Committee Members in Attendance:

- Majority: Michael Burgess (TX), Brett Guthrie (KY), John Shimkus (IL), Bob Latta (OH), Billy Long (MO), Gus Bilirakis (FL), Larry Bucshon (IN), Morgan Griffith (VA), Buddy Carter (GA), Susan Brooks (IN), Leonard Lance (NJ), Richard Hudson (NC), Chris Collins (NY).
- Minority: Gene Green (TX), Frank Pallone Jr. (NJ), Anna Eshoo (CA), Doris Matsui (CA), Kurt Schrader (OR), Kathy Castor (FL), Elliot Engel (NY), Joe Kennedy III (MA)

Summary:

Chairman Burgess opened the hearing talking about how long the hearing on Medicare Access and CHIP Reauthorization Act (MACRA) and Merit-based Incentive Payment System (MIPS) have been in the works and how timely it is to the recently proposed changes to the Physician Fee Schedule (PFS) and Quality Payment Program (QPP). He cited that although the MACRA/MIPS system is far from perfect, it is certainly an upgrade from the previous reimbursement system that was beholden to the Sustainable Growth Rate (SGR). He touted the program's vision of long term success regarding the move to quality rather than overall volume and a "one-size-fits-all" approach. However, the law would certainly benefit from some technical updates.

Ranking Member Green also touted the move away from the SGR, citing it as a “thorn in the side” of the American healthcare system. He also spoke about the success in overhauling payment systems as means to shift from quantity to quality through levers such as Alternate Payment Models (APMs).

During his testimony, Dr. Barbe highlighted that although the program started off with the right goals, it has moved away from an incentive system to a penalty-based program. He also reiterated the common sentiment that MACRA was an important step forward from the previous program based on SGR. He really emphasized how successful the MACRA program could be if it was implemented and carried out correctly – Congress and HHS must simply keep in mind that it is not a “one and done” program but rather, an evolving program. PTAC was also mentioned as an undervalued and underutilized body that recommends innovations which the Centers for Medicare and Medicaid Services (CMS) chooses not to adopt.

Dr. Opelka of the American College of Surgeons also expressed gratitude for MACRA and the elimination of the SGR as it has prioritized quality improvement. He stated that quality is measured in order to incentivize better outcomes, not only to get paid so it is important to align measures with the big-picture goals. Expanding on this, he says the system is chasing the wrong goals which clinicians follow along with in order to get paid. He used the example of important surgical specialties being defunded in order to chase meaningless goals to pursue payment. He also touched on patient centered digital records aside from the standard Electronic Health Record – think beyond EHRs and towards machine learning and artificial intelligence.

Dr. Rai agreed with the first two witnesses’ evaluation of MACRA being significantly better than the previous SGR and that fee for service policies are not effective in transitioning to higher quality care, as Congress intended. He proposes that payment policies need to move towards population health rather than the sickness of patients in order to increase quality performance. Dr. Rai also emphasized that current MACRA payment policies don’t reflect Congress’ intentions. For example, there should be a process to reward high quality performance while also penalizing the low-quality performance. Because of this, clinicians are solely seeking opportunities to get paid rather than reach the highest quality they can. In addition, the reporting burdens on small practices especially, are very negatively impactful.

Dr. Parekh testified on behalf of the Alliance for Specialty Medicine along with his own organization. He expressed that although MACRA streamlined a lot of the existing legacy programs and implemented technical updates, it is far from perfect. He also highlighted the importance that legacy programs need to move towards reporting and scoring programs that are significantly less complex. Dr. Parekh also explained that many specialty measures that increase quality of care are often removed from MIPS and that does not benefit clinicians under the Alliance’ umbrella nor patients.

Dr. Ranshof, , in agreement with his fellow witness’, “breathed a sigh of relief” when a replacement for the SGR was passed and implemented. Although he believes there are plenty of technical improvements that can be made to MIPS, it is still significantly better than previous iterations of quality reporting programs. He offered a few suggested improvements to the MIPS program as well; 1) lower threshold for excluding groups from MIPS; 2) MIPS for small and large groups may need to have different standards and; 3) find ways for more physicians to participate in the program in order to truly facilitate the transition to quality over volume.

Chairman Burgess spoke about the repeal and replacement of the SGR being one of his primary goals when he was elected to Congress. He then asked if the witness’ believe MACRA is better than SGR with the entire panel agreeing that MACRA is significantly better. He also asked if it would be better to work

together with CMS to improve the current system or scrap the program and start a new one. The entire panel of witness' agreed that the program should continue to be worked on.

Ranking Member Green, in his questioning, mentioned the Physician-Focused Payment Model Technical Advisory Committee (PTAC) and the importance of it being utilized. Dr. Barbe agreed and said that CMS has not engaged in effective dialogue with the PTAC, removing the creative and innovative physician input provided. Essentially saying that physicians want to be involved with HHS on implementing proposals recommended by the PTAC but they are not.

Congressman Guthrie, Vice Chairman, questioned actions that made the witness' successful in MIPS and what they would recommend to other physicians in order to be successful in MIPS. Dr. Parekh spoke of trying to align measures based on outcomes that also align with Congressional intent and MIPS rules. Dr. Barbe also pointed out that if you are at a hospital or practice with limited investment resources, it is difficult to maintain and improve quality because you must meet so many measures.

Congressman Schrader inquired about why over 50% of physicians are excluded from MIPS already. Dr. Rai spoke about how many physicians are not prepared to make the transition from fee-for-service to value-based because of investments in technology, staff development and increased organization size as a result of lacking effort or means to invest resources. Schrader also asked for clarification on lowering the exclusion thresholds to which Dr. Ransohoff replied that any way to get more doctors involved in the process is an improvement.

Congressman Shimkus highlighted that the MIPS program doesn't reward high performance, only "names and shames" low performances. Dr. Rai expressed that oftentimes, the true high performers were punished for not meeting some measures even though they were excelling in non-measured yet important areas.

Congresswoman Matsui spent the entirety of her time focused on expanded access to telehealth as a result of the MIPS requirements. She criticized the CBO for being resistant to seeing the benefits of telehealth. Dr. Rai spoke about the difficulties of furnishing telehealth services due to the lack of payment. Dr. Barbe spoke about the many types of telehealth as well as challenges such as originating and geographic restrictions. Also took the opportunity to commend HR 3482, her own bill which would expand telehealth, which was also included in the opioids package in a very limited capacity.

Congressman Latta spent the majority of his time on questions regarding excess time spent on administrative documentation, rather than with the patient. Dr. Barbe spoke of the AMA's studies on this topic where, in many cases, physicians spend about two hours in front of a computer for every one hour of direct patient care. Dr. Rai and Dr. Ransohoff expanded on the use of computers at home for as much as 20 hours per week, contributing massively to the issue of physician burnout.

Congresswoman Eshoo asked about whether or not CMS has undermined the Congressional intent of MACRA due to the extremely low number of participants. Dr. Rai thought this is absolutely true and CMS should truly implement what Congress passed – including more physicians. She also asked how we can improve the system through MIPS, Dr. Opelka made the point that the majority of surgical measures have nothing to do with surgical care, they are spending a huge amount of resources on passing measures regarding things that don't matter at all to their area of care. Eshoo closed saying that they should work together with CMS to fix these issues within MIPS.

Congressman Bucshon brought up the extremely low participation in MIPS and APMs by physicians. He also criticized effectiveness of PTAC as well mentioning that they cancelled their latest meeting due to lack of proposals. He also talked about his new bill on modernizing the stark self-referral law to promote

care coordination in MIPS and increase participation in APMs. He then asked the panel how they think changes to Stark could help coordinate and improve care. Dr. Opelka voiced strong support because Stark is so "broad and overreaching" and made the example that some courts can potentially interpret agreements much different than your own hired counsel. Dr. Ransohoff emphasized how it can be difficult to have hospitals take risks together when they could potentially be in deep water, legally, for just setting up a meeting.

Congressman Griffith endorsed the previous bill because there are many underserved areas that could benefit from updating the Stark laws. He reiterated his concern for rural areas and the pressures that many physicians face to stay in practice. He asked the panel whether legacy programs have eased burdens on rural providers or not.

Congressman Carter brought up a letter that was sent by the Doctors caucus to CMS on the number of Doctors who aren't participating in MIPS. Dr. Rai spoke about the necessity to have everyone participate in the program for it to work. Carter also touched on the amount of investment necessary to participate in MIPS, Dr. Rai explains that investing in people is the most important step but patient facing digital care is also extremely important.

About MACRA

MACRA, otherwise known as the Medicare Access and Chip Reauthorization Act, was passed in 2015 and made drastic changes to the Medicare payment system for doctors. The legislation established the Merit-based Incentive Payment System (MIPS) as well as the possibility for the use of Advanced Alternative Payment Models (APMs). The program marked a transition away from the Sustainable Growth Rate (SGR) with its volume-based evaluation and towards a more value-based program to improve patient care.