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2020 Issue Brief Regulatory Improvements for Value-based Models

Issue

Medicare regulations have increased in number and in scope, often resulting in doctors spending less time with their patients. Importantly, many federal regulations impede the physician-patient relationship. AMGA supports the efforts of Congress and the Administration to reduce Medicare's regulatory burden. In addition, we support Congress' goal of transitioning Medicare into a value-based purchaser of care.

The best way to address the issue of regulatory burden, while simultaneously incentivizing Medicare's transition away from fee-for-service (FFS), is to link the regulatory reform efforts described below to providers participating in value-based payment models. Linking these critical policy goals would incentivize providers to take steps toward value-based arrangements and would reward those that already have taken this step.

AMGA maintains that the following regulations can be refined to improve AMGA members' ability to deliver high-quality care in value-based models.

Physician Self-referral (Stark Law) Reform: Federal legislation and regulations governing physician self-referral, collectively termed the "Stark Law," were intended to prevent financial conflicts of interest around physician self-referrals in Medicare's FFS settings. As Medicare transitions to value-based arrangements, the need for these protections and related self-referral and anti-kickback regulations lessen, as incentives to over-utilize healthcare services diminish.

Participants in the federal Accountable Care Organization (ACO) program often have to receive several fraud and abuse waivers since the financial incentives push providers to improve the continuity, coordination, and continuum of care for assigned ACO beneficiaries. The Stark law's prohibitions, which were drafted over 30 years ago, impede the physician-hospital relationships necessary to address overuse of services. The Stark Law was drafted to address volume of service increases in FFS Medicare. It has virtually no application in value models, which incentivize appropriate use of services.

Telehealth: Telehealth and remote-monitoring services offer Medicare beneficiaries substantial access and care improvement opportunities, including self-management support, comparatively better outcomes, and higher patient satisfaction. Additionally, telehealth leads to greater spending efficiency for the Medicare program.

During the COVID-19 pandemic, Congress has enacted legislation to waive Medicare's geographic limitations through [H.R. 6074](#), the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, which significantly changed healthcare delivery. The pandemic has exposed the underlying flaws in the site-of-service limitations for telehealth services and how these limitations neglect the needs of many Medicare beneficiaries. All Medicare beneficiaries should have access to care based on what they and their providers determine is the most clinically appropriate.

AMGA Asks Congress to Address the Following Issues:

- ***Physician Self-referral (Stark Law) Reform:*** Policymakers should update the Stark Law to account for changes in care models that have led to more integrated care delivery.
- ***Telehealth:*** Congress should permanently extend Medicare telehealth waivers allowed under H.R. 6074, allowing AMGA members to care for patients without geographic limitations.